

WORLD TRADE
ORGANIZATION

G/SG/N/1/CHL/2
24 August 1999

(99-3520)

Committee on Safeguards
Original: Spanish

NOTIFICATION OF LAWS, REGULATIONS AND
ADMINISTRATIVE PROCEDURES RELATING
TO SAFEGUARD MEASURES

CHILE

The following communication, dated 23 July 1999, has been received from the Permanent Mission of Chile.

Pursuant to Article 12.6 of the Agreement on Safeguards, I have pleasure in communicating herewith Chile's new legislation on investigation and imposition of safeguard measures.

The new legislation was adopted in Law No. 19.612, published in the Diario Oficial (Official Journal) of 31 May 1999.

Under the provisions of Law No. 19.612, the new safeguards provisions have been incorporated into the law previously in force, namely Law No. 18.525. In other words, the new Law No. 19.612 is a law amending Law No. 18.525.

Law No. 18.525 is entitled "Rules on the Importation of Goods" and allows for the conduct of investigations related to anti-dumping and countervailing duties; the investigating authority mentioned in this Law has now also been given the authority to initiate investigations and impose safeguard measures.

In addition to the foregoing, you will find attached the Regulations on application of safeguard measures issued in Ministry of Finance Decree No. 909 of 17 June 1999 and published in the Diario Oficial of 23 June 1999.

For a better understanding of this notification, the following three annexes are attached:

Annex I: The text of Law No. 19.612.

Annex II: The text of Law No. 18.525 as it now appears following the recent amendments in Law No. 19.612 (the provisions concerning safeguard measures are in bold italics).

Annex III: Ministry of Finance Decree No. 909-99, implementing the law.

ANNEX I

LAW NO. 19.612

AMENDING LAW NO. 18.525 ON DISTORTION OF IMPORT PRICES
FOR THE PURPOSE OF ESTABLISHING A SAFEGUARDS
PROCEDURE
PURSUANT TO THE MARRAKESH AGREEMENT

Bearing in mind that the National Congress has approved the following draft Law

"Single article - add the following amendments to Law No. 18.525:

(a) Add the following words in the first paragraph of Article 4 after the word "surcharges" and delete the comma following it: "as referred to in Article 9 or".

(b) Replace Article 9 by the following:

Article 9. In the cases referred to in Article XIX of the General Agreement on Tariffs and Trade 1994 and the Agreement on Safeguards of the World Trade Organization, the President of the Republic may apply ad valorem tariff surcharges, through a Supreme Decree of the Ministry of Finance, subject to a favourable report by the Commission referred to in Article 11.

The surcharges referred to in the preceding paragraph may be applied provisionally if the Commission determines that the circumstances referred to in Article 6 of the Agreement on Safeguards of the World Trade Organization exist. The Commission shall have a period not exceeding 30 days from the date of initiation of the investigation in which to undertake this determination.

The Commission may initiate an investigation pursuant to a written request submitted by the domestic industry affected by the serious injury or threat of serious injury. Domestic industry shall be interpreted as referring to the industry described in Article 4.1(c) of the Agreement on Safeguards of the World Trade Organization. The Commission may on its own initiative conduct an investigation when it possesses information that justifies so doing.

The surcharges referred to in this Article shall not be applied for more than one year, including the period of provisional application of the measure. This period may be extended for one further period not exceeding one year when

the reasons for their application still exist, subject to a favourable report by the Commission referred to in the first paragraph above. Extension of the surcharge shall include a timetable for its gradual dismantling, unless there are exceptional circumstances duly substantiated by the Commission.

Application of a surcharge which, added to the tariff in effect, amounts to a figure higher than the tariff bound in the World Trade Organization shall require the approval of three-quarters of the members of the Commission.

The application of emergency or safeguard measures provided in trade agreements shall be governed, as a supplementary matter, by the rules of this Article and its regulations. Where there is inconsistency between the regulations in this Law and those in the aforementioned agreements, the latter shall prevail to the extent of the inconsistency.

When compensation with another country is agreed under a safeguard measure, the President of the Republic may, through a Supreme Decree of the Ministry of Finance and for the period of application of the measure, lower tariffs or accelerate the tariff reduction process provided in the corresponding trade agreement.

The President of the Republic may, through a Supreme Decree of the Ministry of Finance, raise the tariffs applicable to goods from other countries when no agreement on adequate compensation under a safeguard measure has been agreed by this country in respect of Chilean goods.

(c) In Article 10, delete the words beginning "Surcharges of" and ending with "24 per cent ad valorem and".

(d) In Article 10, delete the words "these surcharges" between the words "which" and "anti-dumping duties".

(e) In the fifth paragraph of Article 11, delete the words "these surcharges" and replace the words "minimum customs values" by "surcharges".

(f) Replace the tenth paragraph of Article 11 by the following:

"The Commission shall be responsible for considering complaints concerning the application of the Agreement on Subsidies and Countervailing Measures, the Agreement on Safeguards and the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, which form part of the Marrakesh Agreement establishing the World Trade Organization".

In as much as I have approved and endorsed it; to be enacted and implemented as a law of the Republic. Santiago, 28 May 1999. EDUARDO FREI RUIZ-TAGLE, President of the Republic. Eduardo Aninat Ureta, Minister for Finance. Jorge Leiva Lavalle, Minister for the Economy, Development and Reconstruction.

ANNEX II

LAW NO. 18.525

RULES ON THE IMPORTATION OF GOODS

Article 1. All foreign goods to be imported into Chile shall be subject to the payment of the duties laid down in the Customs Tariff or in other relevant legal provisions.

The total or partial exemptions provided in the tariff, in special laws or international treaties, shall be exempt from the provisions of the preceding paragraph.

Article 2. The customs duties established for various categories of goods in the official text of the Tariff approved by Finance Decree No. 679 of 1981, published in the Diario Oficial of 14 December 1981, and its subsequent amendments, and the duties to be applied under the 1980 Montevideo Treaty

establishing the Latin American Integration Association (LAIA), shall form part of this Law.

The general rules on interpretation of the tariff nomenclature, the complementary general rules, the rules on units and packaging, the rules on valuation procedures and the notes on each heading contained in the Tariff referred to in the preceding paragraph shall also form part of this Law.

Article 3. The rules on surtaxes and weights shall be fixed in a resolution by the Director of the National Customs Service. The explanatory notes to the nomenclature issued or to be issued by the Brussels Customs Cooperation Council shall be used to interpret the Customs Tariff without prejudice to the authority given to the Director of the Service under Article 4, No. 7, of the Basic Law on the National Customs Service.

Article 4. Where the President of the Republic breaks down the headings in the customs tariff or amends these headings for statistical purposes or for any other administrative reasons, this shall not affect the customs duty to be paid upon import of the goods laid down in Article 2, unless the breakdown is needed to apply the surcharges referred to in Article 9 or anti-dumping duties or countervailing duties referred to Article 10.

The National Customs Service may make the breakdowns and amendments referred to in the preceding paragraph, subject to authorization by the President of the Republic. In such cases, the resolutions of the Service shall be published in the Diario Oficial.

The Director of the National Customs Service shall be responsible for indicating the customs categories in which the goods shall be classified and shall be obliged to use the nomenclature in the Customs Tariff for this purpose.

Article 5. The taxable base for ad valorem duties shall be the customs value of the goods entering Chile. This value shall be determined in accordance with the provisions of Articles 6, 7, 8 and 9 of this Law.

Article 6. Where sales take place under free market conditions, the customs value shall be determined on the basis of the transaction value, that is the price actually paid or payable for the goods when sold for import into Chile.

A transaction shall be deemed to have taken place under free market conditions between a buyer and an independent seller when the payment of the price is the only transaction by the buyer and there is no contractual or other commercial relation between the buyer and the seller and partners other than that created by the transaction of the goods in question. Two persons shall be deemed to be related commercially if one of them has any interest whatsoever in the business of the other or if both have a common interest in any business or if a third party has a direct or indirect interest in the business of one of them.

Where these free conditions do not exist, the taxable base of the ad valorem duties shall be the price that it is deemed the goods could obtain at the time the customs duties are payable in a transaction under free market conditions between an independent buyer and seller.

Article 7. The customs value of the imported goods shall include all the costs incurred for transport to the place of importation. These costs shall include loading and unloading, transport, commission, insurance, brokerage, interest and the cost of packing unless they have their own customs regime. The place of importation of the goods shall be the place of entry for customs formalities. For the purposes of valuation, the customs duties shall be payable on the date appearing on the corresponding customs declaration.

Article 8. In the cases referred to in the final paragraph of Article 6 or where there are grounds for considering that the declared value is not the actual value, the National Customs Service shall establish the value taking into account the various elements which, in the transaction in question, are contrary to the concept of a transaction under free market conditions.

For the purposes mentioned above, the Service shall consider the customs value of identical goods or, if there are none, similar goods sold at the same level of trade as those being valued. In determining the value, the Service shall also take into account reliable information from manufacturers or may require information from national or foreign public authorities. The same procedure shall be followed when the importation of the goods into Chile does not come under a sales transaction. In the case of used goods, when taking into account the price of new identical or similar goods, reductions for use and age shall be taken into account as appropriate.

The valuation established on the basis of the rules in this Law shall constitute the taxable base for the application of ad valorem duties or for fixing the amount corresponding to the difference in duty if the import declaration has already been processed. The acts of the National Customs Service modifying the declared value may be requested in conformity with the procedure laid down in Articles 132 et seq. of the Customs Order.

Article 9. In the cases referred to in Article XIX of the General Agreement on Tariffs and Trade 1994 and the Agreement on Safeguards of the World Trade Organization, the President of the Republic may apply ad valorem tariff surcharges, through a Supreme Decree of the Ministry of Finance, subject to a favourable report by the Commission referred to in Article 11.

The surcharges referred to in the preceding paragraph may be applied provisionally if the Commission determines that the circumstances referred to in Article 6 of the Agreement on Safeguards of the World Trade Organization exist. The Commission shall have a period not exceeding 30 days from the date of initiation of the investigation in which to undertake this determination.

The Commission may initiate an investigation pursuant to a written request submitted by the domestic industry affected by the serious injury or threat of serious injury. Domestic industry shall be interpreted as referring to the industry described in Article 4.1(c) of the Agreement on Safeguards of the World Trade Organization. The Commission may on its own initiative

conduct an investigation when it possesses information that justifies so doing.

The surcharges referred to in this Article shall not be applied for more than one year, including the period of provisional application of the measure. This period may be extended for one further period not exceeding one year when the reasons for their application still exist, subject to a favourable report by the Commission referred to in the first paragraph above. Extension of the surcharge shall include a timetable for its gradual dismantling, unless there are exceptional circumstances duly substantiated by the Commission.

Application of a surcharge which, added to the tariff in effect, amounts to a figure higher than the tariff bound in the World Trade Organization shall require the approval of three quarters of the members of the Commission.

The application of emergency safeguard measures provided in trade agreements shall be governed, as a supplementary matter, by the rules of this Article and its regulations. Where there is inconsistency between the regulations in this Law and those in the aforementioned agreements, the latter shall prevail to the extent of the inconsistency.

When compensation with another country is agreed under a safeguard measure, the President of the Republic may, through a Supreme Decree of the Ministry of Finance and for the period of application of the measure, lower tariffs or accelerate the tariff reduction process provided in the corresponding trade agreement.

The President of the Republic may, through a Supreme Decree of the Ministry of Finance, raise the tariffs applicable to goods from other countries when no agreement on adequate compensation under a safeguard measure has been agreed by this country in respect of Chilean goods.

Article 10. Anti-dumping¹ and countervailing duties are hereby established for imports of goods of which the entry into the country causes or threatens serious injury to the domestic industry by entering at diminished prices as a

result of artificial effects in their respective markets. The President of the Republic shall determine the goods to which these surcharges, anti-dumping duties and countervailing duties shall apply, as well as their amount and duration, which shall not exceed one year, after receipt of the report by the Commission referred to in the following Article.

Article 11. A national commission shall be established to investigate the existence of distortions in the prices of imported goods. This commission shall comprise the Inspector-General of the Economy, who shall be its Chairman; two representatives of the Central Bank of Chile, who shall be designated by its Board; representatives of the Ministry of Finance, the Ministry of Agriculture and the Ministry of the Economy, Development and Reconstruction, who shall be designated by a resolution published in the *Diario Oficial*; the National Director of Customs; and a representative of the Ministry of Foreign Affairs designated as mentioned above. The above-mentioned members shall have the alternates provided for by law or, as designated by their respective institutions by resolution published in the *Diario Oficial*.

The commission shall be responsible for hearing complaints concerning distortions in the prices of internationally traded goods. To that end, it shall conduct an investigation in each case. It shall report the opening and subject of an investigation within five working days after the complaint has been duly lodged, by means of a notice published in the *Diario Oficial*. Within 30 days from the date of such notice, the Commission shall receive whatever information interested parties wish to submit and request any reports it considers necessary. Before reaching a decision, it shall also conduct hearings of the interested parties, at their request, to hear their arguments.

The complaint submitted to the commission shall indicate the distortion and the manner in which it causes or threatens material injury to the domestic industry affected.

Without prejudice to the provisions of the preceding paragraphs, the commission may on its own initiative conduct the investigations referred to

in this Article when it possesses information that justifies so doing. Investigations conducted by the commission on its own initiative shall be subject to the same procedure as is established for investigation upon complaint to the extent applicable.

Within a maximum period of 90 days from the date of publication of the notice in Diario Oficial, the commission shall make a decision on the facts under investigation on the basis of the information in its possession. If the commission considers that, on the basis of such information, it is possible to establish the existence of distortions in the price of the product and that such distortions cause or threaten material injury to the affected domestic industry, it shall so state in the decision it delivers for that purpose, in which it shall recommend, either jointly or separately, the establishment of the surcharges² referred to in Article 9 or³ the anti-dumping or countervailing duties referred to in Article 10.

Before delivering the decision referred to in the preceding paragraph and at any stage in the investigation, the commission may request the President of the Republic, through the Minister for Finance, to establish within a period of 60 days provisional surcharges, anti-dumping or countervailing duties or minimum customs values. The duration of the surcharges, anti-dumping or countervailing duties or minimum customs values applied under this paragraph shall not extend beyond the date on which the final decision is adopted, and shall be payable if they were in force at the time when the Customs Service accepted the corresponding import declaration for processing.

The commission may at any time request the competent authority to modify or repeal measures adopted provisionally.

In the event that when the investigation has been completed the commission decides that there is no distortion in the price of the goods concerning which it requested provisional measures, or that distortions do exist but do not cause or threaten serious injury to the national economy, the persons affected by the provisional surcharges, anti-dumping or countervailing duties or

minimum customs values may apply for the refund of such payments. Likewise, the persons concerned may request the total or partial refund of amounts paid under such provisional measures when, following a recommendation by the commission in the relevant resolution that definitive surcharges, anti-dumping or countervailing duties or minimum customs values be imposed, the competent authority does not impose any such measure or adopts a measure for a lower amount than that which had to be paid under the provisional measure. Current interest shall accrue on the amounts refunded. Application for refund must be made within 90 days of the date of entitlement to refund, after which the right thereto shall lapse.

The resolutions of the commission shall be adopted by a majority of votes; in the case of a tied vote, the Chairman shall have the deciding vote.

The commission shall be responsible for considering complaints concerning the application of the Agreement on Subsidies and Countervailing Measures, the Agreement on Safeguards and the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, which form part of the Marrakesh Agreement establishing the World Trade Organization.

Regulations enacted by Supreme Decree of the Ministry of Finance shall establish the necessary procedure for the collection of the duties, taxes and other charges arising out of the provisional imposition of minimum customs values, surcharges, anti-dumping and countervailing duties and their refund, where appropriate. The regulations shall also determine the procedures necessary for the implementation of the provisions of this Article.

The Central Bank of Chile shall act as the Technical Secretariat of the commission referred to in the first paragraph of this Article.

ANNEX III

DECREE OF THE MINISTRY OF FINANCE NO. 909 OF 1999
ADOPTING
REGULATIONS FOR THE APPLICATION OF SAFEGUARD
MEASURES

IN CONFORMITY WITH THE MARRAKESH AGREEMENT

No. 909-Santiago, 17 June 1999. Having regard to Article 32, No. 8, of the Political Constitution of the Republic; Law No. 19.612, amending Law No. 18.525, on establishing a safeguards procedure in conformity with the Marrakesh Agreement; Law No. 18.525 on rules on the importation of goods into Chile; the Supreme Decree of the Ministry of Foreign Affairs No. 65 of 1995; and the Supreme Decree of the Ministry of Finance No. 575 of 1993.

I HEREBY DECREE THAT THE FOLLOWING REGULATIONS ON APPLICATION OF THE SAFEGUARD MEASURES REFERRED TO IN ARTICLE 9 OF LAW NO. 18.525, REPLACED BY SECTION B OF THE SINGLE ARTICLE OF LAW NO. 19.612 ARE APPROVED.

Title 1. The National Commission

Article 1. The National Commission created under Article 11 of Law No. 18.525, hereinafter called the "Commission", shall be the body responsible for receiving requests and recommending the application of safeguard measures consisting of tariff surcharges when, following the relevant investigation, it finds the existence of an increase in imports of a product in such volume, in absolute terms or relative to domestic production, and the conditions which cause or threaten to cause serious injury to the domestic industry producing like or directly competitive products.

Article 2. The investigations shall be conducted by the Commission in accordance with the rules and procedures laid down in Law No. 18.525, Article XIX of the General Agreement on Tariffs and Trade 1994, the Agreement on Safeguards of the World Trade Organization, the international treaties and agreements signed by Chile, and the provisions of these regulations.

In addition, the provisions contained in Title I of Decree No. 575 of the Ministry of Finance, published in the Diario Oficial of 20 August 1993 shall apply to the extent that they are compatible with the provisions of these regulations.

Title 2. Submission of Applications

Article 3. Application for the imposition of a safeguard measure shall be submitted by the domestic industry affected by the injury or threat of serious injury.

"Domestic industry" shall be interpreted as the producers as a whole of the like products or directly competitive products in Chile or whose collective output of the like or directly competitive products constitutes a major proportion of the total domestic production of the products.

The interested parties shall make a written application to the Technical Secretariat of the Commission, addressed to its Chairman, and shall complete the form provided by the Secretariat for this purpose and drawn up in accordance with the instructions of the Commission.

Article 4. In the request for imposition of a safeguard measure, simple assertion, unsubstantiated by relevant evidence shall not be considered sufficient and the application shall contain such information as is reasonably available to the applicant in order to decide whether the measure shall be applied.

Article 5. Without prejudice to the provisions of Article 3, the Commission may on its own initiative conduct an investigation when it possesses information that justifies so doing. Such investigations shall be subject to the same procedure as is established for investigations following a complaint, to the extent applicable.

Title 3. Investigation

Article 6. After it has received a complaint, the Technical Secretariat shall bring it to the attention of the Commission, which shall decide whether or not to initiate an investigation.

Where it is decided to initiate an investigation, a notice shall be published in the Diario Oficial at the expense of the applicant containing an extract of the information contained in the complaint and, as the minimum, the following indications:

- (a) The name of the applicant(s);
- (b) an indication of the imported product under investigation and its tariff classification;
- (c) the form and time-limits for the Resolution;
- (d) information on an increase in imports of a product in such volume, in absolute terms or relative to domestic production, under conditions that cause or threaten to cause serious injury to the domestic industry producing like or directly competitive products;
- (e) the date and place of the public hearing;
- (f) the time-limit for submission of reports, declarations and other documents; and
- (g) the address, telephone and fax numbers of the Technical Secretariat indicating that interested parties may submit documents, make applications and, in general, obtain information on the conduct of the investigation from this Secretariat.

Article 7. Where the Commission decides not to initiate an investigation, it shall adopt a resolution to that effect, rejecting the initiation of an investigation. The resolution shall be notified to the applicants by registered post within 10 (ten) working days following the decision.

Article 8. Within 30 (thirty) days from the date of publication of the notice of initiation of an investigation, the Commission shall receive the information submitted by the interested parties and shall request the reports it deems necessary for a proper investigation of the facts.

Article 9. The interested parties shall be given ample opportunity to provide the evidence they deem necessary. Where the interested parties have supplied information deemed to be confidential and do not provide a public summary thereof acceptable to the Commission, the latter may decide to disregard this information in the investigation unless it can be demonstrated to its satisfaction from appropriate sources that the information is correct.

Article 10. Before adopting a definitive decision, the Commission shall hold a public hearing at which the interested parties shall be given an opportunity to submit evidence, present their arguments and express their views on the information submitted by the other parties. The date and place for the hearing shall be communicated in the notice of initiation of an investigation.

Parties wishing to appear at the hearing shall make an application in writing to the Technical Secretariat up until the third working day prior to the date fixed for the hearing.

Interested parties shall be given a period of 3 (three) working days following the hearing to provide written copies of the information given orally otherwise it shall not be taken into account in the final determination.

Title 4. Determination of Serious Injury

Article 11. Serious injury shall be understood to mean a significant impairment in the position of a domestic industry.

Threat of serious injury shall be understood to mean serious injury that is clearly imminent. A determination of the existence of a threat of serious injury shall be based on facts and not merely on allegation, conjecture or remote possibilities.

Article 12. In determining the existence of injury or threat of serious injury, the Commission shall evaluate all relevant factors of an objective and quantifiable nature having a bearing on the situation of the domestic industry, in particular, the rate and amount of the increase in imports of the product concerned in absolute terms or relative to domestic production, the prices of

the imports, the share of the domestic market taken by increased imports, changes in the level of sales, production, prices, productivity, capacity utilization, profits and losses, and employment.

Article 13. The determination referred to above shall not be made unless the investigation demonstrates, on the basis of objective evidence, the existence of a causal link between increased imports of the product concerned, in absolute terms or relative to domestic production, and serious injury or threat of serious injury. When factors other than increased imports are causing injury to the domestic industry at the same time, such injury shall not be attributed to increased imports.

Title 5. Provisional Measures

Article 14. In critical circumstances where delay would cause damage which it would be difficult to repair, the Commission may request the President of the Republic, through the Minister for Finance, to apply provisional tariff surcharges within a period of 30 (thirty) days from the initiation of the investigation.

The Commission's decision must be based on a preliminary determination of the existence of clear evidence that the increase in imports has caused or threatens to cause serious injury. The resolution recommending the provisional application of the measure shall be transmitted to the President of the Republic for his consideration, together with the relevant technical report, and the President shall decide whether to impose the proposed measure and its amount, putting the application into effect through a decree of the Ministry of Finance to be published in the Diario Oficial.

The determination shall be communicated to the Ministry of Foreign Affairs in a registered letter so that it may make the relevant notifications.

Article 15. The tariff surcharges adopted shall enter into force upon publication in the Diario Oficial and remain in force until publication of the

decision on the application or non-application of definitive measures in the Diario Oficial.

The Commission may at any time request the President of the Republic, through the Minister for Finance, that the provisional measures be modified or annulled.

Title 6. Definitive Measures

Article 16. Within 90 (ninety) days from the initiation of the investigation, the Commission shall take a decision regarding the facts investigated on the basis of the information available to it.

Article 17. If, at the end of the investigation, the available information leads the Commission to conclude that, as a result of the unforeseen developments in the situation and its obligations, including the tariff concessions granted by Chile, imports of a product have increased in such volume and under such conditions as to cause or threaten to cause serious injury to domestic producers of like or directly competitive products, it shall so state in the relevant Resolution recommending the application of the tariff surcharges referred to in Article 9 of Law No. 18.525.

The Commission's Resolution, together with the background information and conclusions of the investigation, shall be transmitted to the President of the Republic, through the Minister for Finance, who shall also inform the Commission of the final decision of the President of the Republic to be given in a Decree of the Ministry of Finance.

Article 18. Where, in the opinion of the Commission, the background information does not permit the establishment of a safeguard measure, it shall take the relevant resolution ending the investigation and shall transmit the decision to the Minister for Finance so that a summary may be published in the Diario Oficial.

Article 19. The Acts containing the Commission's recommendation on the application or non-application of a safeguard measure shall be brought to the attention of the interested parties when the Decree or summary, whichever is appropriate, is published in the Diario Oficial.

The recommendation shall contain references and information summarizing the following aspects inter alia:

- (a) The product under investigation and its corresponding tariff clarification;
- (b) the identity of the applicant(s);
- (c) the identity of the producers, exporters or importers of the product who have taken part in the investigation;
- (d) the facts concerning the existence of an increase in imports in such volume, in absolute terms or relative to domestic production, under circumstances that cause or threaten to cause serious injury to domestic industry producing like or directly competitive products;
- (e) considerations concerning the determination of injury;
- (f) considerations concerning the determination of a causal link between the increase in imports and the injury or threat of injury to the domestic industry.

Title 7. Duration of the Measures

Article 20. The Commission may at any time when it has the relevant information recommend to the President of the Republic, through the Minister for Finance, that the application of the tariff surcharges in effect should be modified or abolished before the date of their expiry.

Before making the aforementioned recommendation, the Commission shall hear the interested parties concerning the information which, in their view, make it necessary to modify or abolish the measure adopted. The interested

parties shall be given a hearing 10 (ten) working days after the relevant communication has been sent by the Commission, whether or not comments have been made on the information brought to their attention.

Article 21. The duration of tariff surcharges shall not exceed one year from the date of publication of the Decree by the Ministry of Finance establishing them. Where provisional measures are applied, the period of one year shall be calculated from the date of publication of the Decree imposing them.

The measures may be extended once for a further period not exceeding one year, at the request of the applicant, which must be made at least 30 (thirty) days before the expiry of the original period provided that the circumstances that led to their application persist and subject to a favourable report by the Commission.

Title 8. Notification, Consultation and Compensation

Article 22. The Ministry of Foreign Affairs shall be responsible for making the relevant notifications and holding the consultations with Governments involved.

In the situation referred to above, the Commission shall inform the Ministry of Foreign Affairs so that it may take the necessary steps.

The notifications shall under no circumstances reveal confidential information whose disclosure might constitute an obstacle for the implementation of laws or in any other way be contrary to the public interest or injure the legitimate commercial interests of public or private companies.

Article 23. Where, as a result of the consultations, the Ministry of Foreign Affairs recommends the granting of compensation, it shall inform the President of the Republic through the Ministry of Finance, of the outcome of the consultations, the compensation agreed and its amount where applicable.

In such cases, the President of the Republic, in issuing the Supreme Decree of the Ministry of Finance establishing the safeguard measure or in a new Decree if the former Decree has already been issued, shall specify the duration of the measure, the reduction in tariffs or the acceleration of the tariff reduction process under the corresponding agreement.

Article 24. The President of the Republic, through a Supreme Decree of the Ministry of Finance, may increase the tariffs applicable to goods from the other country when no agreement has been reached on adequate compensation through application of a safeguard measure, by the other country, to Chilean goods.

The Ministry of Foreign Affairs shall report on the outcome of the consultations and shall recommend the application of such measures to the President of the Republic through the Ministry of Finance.

Title 9. Refund and Payment of Duties

Article 25. Persons affected by provisional measures during investigations on the application of safeguard measures may request the refund of the total amount paid if it is finally decided not to apply tariff surcharges.

Likewise, persons affected by provisional measures may request the partial refund of the amount paid when the competent authority finally decides to apply measures of an amount lower than that paid while the provisional measures were in force.

Current interest shall be paid on the sums refunded. The right to request a refund shall be exercised within 90 (ninety) days from the date on which the refund became payable otherwise the refund shall be forfeited.

Article 26. The payment of duties, taxes and other levies payable as provisional tariff surcharges shall be made by payment of a percentage of the applicable amount in the relevant customs declaration and the calculations shall be made by applying the percentage of the tariff surcharge to the customs value of the corresponding item.

Article 27. Where duties, taxes and other levies payable as provisional tariff surcharges are to be refunded, the importer claiming the refund shall submit an application in writing to the Regional Director or Administrator of Customs where the relevant declaration was processed.