CHAPTER 5

TRADE REMEDIES

SECTION A

General provisions

ARTICLE 5.1

Definitions

For the purposes of this Chapter:

(a) "domestic industry" means the producers as a whole of the like or directly competitive goods operating in a Party, or those whose collective output of the like or directly competitive goods constitutes a major proportion of the total domestic production of those goods;

(b) "serious injury" means a significant overall impairment in the position of a domestic industry;

(c) "threat of serious injury" means serious injury that is clearly imminent in accordance with the investigation referred to in paragraph 3 of Article 5.4. A determination of the existence of a threat of serious injury shall be based on facts and not merely on allegation, conjecture or remote possibility; and

(d) "transition period" means, in relation to a particular originating good, the period beginning on the date of entry into force of this Agreement and ending 10 years after the date of completion of tariff reduction or elimination on that good in accordance with Annex 2-A.

SECTION B

Bilateral safeguard measures

ARTICLE 5.2

Application of bilateral safeguard measures

1. If, as a result of the elimination or reduction of a customs duty in accordance with Article 2.8, an originating good from a Party is being imported into the other Party in such increased quantities, in absolute terms or relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to a domestic industry, the other Party may adopt the measures provided for in paragraph 2 to the extent necessary to prevent or remedy the serious injury to the domestic industry of the other Party and to facilitate the adjustment of the domestic industry.

2. A bilateral safeguard measure may consist of:

(a) the suspension of any further reduction of the rate of customs duty on the originating good provided for in Chapter 2; or

(b) the increase of the rate of customs duty on the originating good to a level not exceeding the lesser of:

(i) the most-favoured-nation applied rate of customs duty in effect on the day when the bilateral safeguard measure is applied; and

(ii) the most-favoured-nation applied rate of customs duty in effect on 31 January 2019.