Section G - Textiles and Apparel

Article 3.19: Bilateral Emergency Actions

1. If, as a result of the elimination of a duty provided for in this Agreement, a textile or apparel good benefiting from preferential tariff treatment under this Agreement is being imported into the territory of a Party in such increased quantities, in absolute terms or relative to the domestic market for that good, and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing a like or directly competitive good, the importing Party may, to the extent and for such time as may be necessary to prevent or remedy such damage and to facilitate adjustment, take emergency action, consisting of an increase in the rate of duty on the good to a level not to exceed the lesser of:

(a) the most-favored-nation (MFN) applied rate of duty in effect at the time the action is taken; and

(b) the MFN applied rate of duty in effect on the date of entry into force of this Agreement.

2. In determining serious damage, or actual threat thereof, the importing Party:

(a) shall examine the effect of increased imports from the other Party on the particular industry, as reflected in changes in such relevant economic variables as output, productivity, utilization of capacity, inventories, market share, exports, wages, employment, domestic prices, profits and investment, none of which is necessarily decisive; and

(b) shall not consider changes in technology or consumer preference as factors supporting a determination of serious damage or actual threat thereof.

3. The importing Party may take an emergency action under this Article only following an investigation by its competent authorities.

4. The importing Party shall deliver to the other Party, without delay, written notice of its intent to take emergency action, and, on request of the other Party, shall enter into consultations with that Party.

5. The following conditions and limitations shall apply to any emergency action taken under this Article:

(a) no emergency action may be maintained for a period exceeding three years;

(b) no emergency action may be taken or maintained beyond the period ending eight years after duties on a good have been eliminated pursuant to this Agreement;

(c) no emergency action may be taken by an importing Party against any particular good of the other Party more than once; and

(d) on termination of the action, the good will return to duty-free status.

6. The Party taking an emergency action under this Article shall provide to the Party against whose good the action is taken mutually agreed trade liberalizing compensation in

the form of concessions having substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the emergency action. Such concessions shall be limited to textile and apparel goods, unless the Parties otherwise agree. If the Parties are unable to agree on compensation, the Party against whose good the emergency action is taken may take tariff action having trade effects substantially equivalent to the trade effects of the emergency action taken under this Article. Such tariff action may be taken against any goods of the Party taking the emergency action. The Party taking the tariff action shall apply such action only for the minimum period necessary to achieve the substantially equivalent trade effects. The importing Party's obligation to provide trade compensation and the exporting Party's right to take tariff action shall terminate when the emergency action terminates.

7. Nothing in this Agreement shall be construed to limit a Party's right to restrain imports of textile and apparel goods in a manner consistent with the Agreement on Textiles and Clothing or the Safeguards Agreement. However, a Party may not take or maintain an emergency action under this Article against a textile or apparel good that is subject, or becomes subject, to a safeguard measure that a Party takes pursuant to either such WTO agreement.

Article 3.20: Rules of Origin and Related Matters

Application of Chapter Four

1. Except as provided in this Section, Chapter Four (Rules of Origin and Origin Procedures) applies to textile and apparel goods.

2. The rules of origin set forth in this Agreement shall not apply in determining the country of origin of a textile or apparel good for non-preferential purposes.

Consultations

3. On the request of either Party, the Parties shall consult to consider whether the rules of origin applicable to particular textile and apparel goods should be revised to address issues of availability of supply of fibers, yarns or fabrics in the territories of the Parties.

4. In the consultations referred to in paragraph 3, each Party shall consider all data presented by the other Party showing substantial production in its territory of the particular good. The Parties shall consider that substantial production has been shown if a Party demonstrates that its domestic producers are capable of supplying commercial quantities of the good in a timely manner.

5. The Parties shall endeavor to conclude consultations within 60 days of a request. An agreement between the Parties resulting from the consultations shall supersede any prior rule of origin for such good when approved by the Parties in accordance with Article 24.2 (Amendments).

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6. A textile or apparel good provided for in Chapters 50 through 63 of the Harmonized System that is not an originating good, because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in Annex 4.1 (Specific Rules of Origin), shall nonetheless be considered to be an originating good if the total weight of all such fibers or yarns in that component is not more than seven percent of the total weight of that component. Notwithstanding the preceding sentence, a good containing elastomeric yarns in the component of the good that determines the tariff classification of the good shall be considered to be an originating good only if such yarns are wholly formed in the territory of a Party.

Treatment of Sets

7. Notwithstanding the good specific rules in Annex 4.1 (Specific Rules of Origin), textile and apparel goods classifiable as goods put up in sets for retail sale as provided for in General Rule of Interpretation 3 of the Harmonized System shall not be regarded as originating goods unless each of the goods in the set is an originating good or the total value of the non-originating goods in the set does not exceed 10 percent of the customs value of the set.

Preferential Tariff Treatment for Non-Originating Cotton and Man-made Fiber Fabric Goods (Tariff Preference Levels)

8. Subject to paragraph 9, the following goods, if they meet the applicable conditions for preferential tariff treatment under this Agreement other than the condition that they be originating goods, shall be accorded preferential tariff treatment as if they were originating goods:

(a) cotton or man-made fiber fabric goods provided for in Chapters 52, 54, 55, 58, and 60 of the Harmonized System that are wholly formed in the territory of a Party from yarn produced or obtained outside the territory of a Party; and
(b) cotton or man-made fiber fabric goods provided for in Annex 4.1 (Specific Rules of Origin) that are wholly formed in the territory of a Party from yarn spun in the territory of a Party from fiber produced or obtained outside the territory of a Party.

9. The treatment described in paragraph 8 shall be limited to goods imported into the territory of a Party up to an annual total quantity of 1,000,000 SME.

Preferential Tariff Treatment for Non-Originating Cotton and Man-made Fiber Apparel Goods (Tariff Preference Levels)

10. Subject to paragraph 11, cotton or man-made fiber apparel goods provided for in Chapters 61 and 62 of the Harmonized System that are both cut (or knit to shape) and

sewn or otherwise assembled in the territory of a Party from fabric or yarn produced or obtained outside the territory of a Party, and that meet the applicable conditions for preferential tariff treatment under this Agreement other than the condition that they be originating goods, shall be accorded preferential tariff treatment as if they were originating goods.

11. The treatment described in paragraph 10 shall be limited as follows:

(a) in each of the first 10 years after the date of entry into force of this Agreement, the treatment shall apply to goods described in that paragraph imported into the territory of a Party up to a quantity of 2,000,000 SME; and
(b) in the eleventh year, and for each year thereafter, the treatment shall apply to goods described in that paragraph imported into the territory of a Party up to a quantity of 1,000,000 SME.

Certification for Tariff Preference Level

12. A Party, through its competent authorities, may require that an importer claiming preferential tariff treatment for a textile or apparel good under paragraph 8 or 10 present to such competent authorities at the time of importation a certification of eligibility for preferential tariff treatment under such paragraph. A certification of eligibility shall be prepared by the importer and shall consist of information demonstrating that the good satisfies the requirements for preferential tariff treatment under paragraph 8 or 10.

Article 3.21: Customs Cooperation

1. The Parties shall cooperate for purposes of:

(a) enforcing or assisting in the enforcement of their laws, regulations, and procedures implementing this Agreement affecting trade in textile and apparel goods;
(b) ensuring the accuracy of claims of origin; and
(c) preventing circumvention of laws, regulations, and procedures of either Party or international agreements affecting trade in textile and apparel goods.

2. On the request of the importing Party, the exporting Party shall conduct a verification for purposes of enabling the importing Party to determine that a claim of origin for a textile or apparel good is accurate. The exporting Party shall conduct such a verification, regardless of whether an importer claims preferential tariff treatment for the good. The exporting Party also may conduct such a verification on its own initiative.

3. Where the importing Party has a reasonable suspicion that an exporter or producer of the exporting Party is engaging in unlawful activity relating to trade in textile and apparel goods, the importing Party may request the exporting Party to conduct a verification for purposes of enabling the importing Party to determine that the exporter or producer is

complying with applicable customs laws, regulations, and procedures regarding trade in textile and apparel goods, including laws, regulations, and procedures that the exporting Party adopts and maintains pursuant to this Agreement and laws, regulations, and procedures of either Party implementing other international agreements regarding trade in textile and apparel goods, and to determine that claims of origin regarding textile or apparel goods exported or produced by that person are accurate. For purposes of this paragraph, a reasonable suspicion of unlawful activity shall be based on factors including relevant factual information of the type set forth in Article 5.5 (Cooperation) or that, with respect to a particular shipment, indicates circumvention by the exporter or producer of applicable customs laws, regulations, or procedures regarding trade in textile and apparel goods, including laws, regulations, or procedures adopted to implement this Agreement, or international agreements affecting trade in textile and apparel goods.

4. The importing Party, through its competent authorities, may undertake or assist in a verification conducted pursuant to paragraph 2 or 3, including by conducting, along with the competent authorities of the exporting Party, visits in the territory of the exporting Party to the premises of an exporter, producer, or any other enterprise involved in the movement of textile or apparel goods from the territory of the exporting Party to the territory of the importing Party.

5. Each Party shall provide to the other Party, consistent with its laws, regulations, and procedures, production, trade, and transit documents and other information necessary to conduct verifications under paragraphs 2 and 3. Any documents or information exchanged between the Parties in the course of such a verification shall be considered confidential, as provided for in Article 5.6 (Confidentiality).

6. While a verification is being conducted, the importing Party may take appropriate action, which may include suspending the application of preferential tariff treatment to:

(a) the textile or apparel good for which a claim of origin has been made, in the case of a verification under paragraph 2; or

(b) the textile and apparel goods exported or produced by the person subject to a verification under paragraph 3, where the reasonable suspicion of unlawful activity relates to those goods.

7. The Party conducting a verification under paragraph 2 or 3 shall provide the other Party with a written report on the results of the verification, which shall include all documents and facts supporting any conclusion that the Party reaches.

8. (a) If the importing Party is unable to make the determination described in paragraph 2 within 12 months after its request for a verification, it may take action as permitted under its law with respect to the textile and apparel good subject to the verification, and with respect to similar goods exported or produced by the person that exported or produced the good.

(b) If the importing Party is unable to make the determinations described in paragraph 3 within 12 months after its request for a verification, it may take action as

permitted under its law with respect to any textile or apparel goods exported or produced by the person subject to the verification.

9. Prior to commencing appropriate action under paragraph 8, the importing Party shall notify the other Party. The importing Party may continue to take appropriate action under paragraph 8 until it receives information sufficient to enable it to make the determination described in paragraph 2 or 3, as the case may be.

10. Chile shall implement its obligations under paragraphs 2, 3, 6, 7, 8, and 9 no later than two years after the date of entry into force of this Agreement. Before Chile fully implements those provisions, if the importing Party requests a verification, the verification shall be conducted principally by that Party, including through means described in paragraph 4. Nothing in this paragraph shall be construed to waive or limit the importing Party's rights under paragraphs 6 and 8.

11. On the request of either Party, the Parties shall enter into consultations to resolve any technical or interpretive difficulties that may arise under this Article or to discuss ways to improve the effectiveness of their cooperative efforts. In addition, either Party may request technical or other assistance from the other Party in implementing this Article. The Party receiving such a request shall make every effort to respond favorably and promptly to it.

Article 3.22: Definitions

For purposes of this Section:

claim of origin means a claim that a textile or apparel good is an originating good or a good of a Party;

exporting Party means the Party from whose territory a textile or apparel good is exported;

importing Party means the Party into whose territory a textile or apparel good is imported;

SME means square meter equivalents, as calculated in accordance with the conversion factors set out in the *Correlation: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States, 2002* (or successor publication), published by the United States Department of Commerce, International Trade Administration, Office of Textiles and Apparel, Trade and Data Division, Washington, D.C.; and

textile or apparel good means a good listed in the Annex to the Agreement on Textiles and
Clothing.