

UNDERSTANDING BETWEEN THE PARTIES TO THE NORTH AMERICAN FREE TRADE AGREEMENT CONCERNING CHAPTER EIGHT- EMERGENCY ACTION

Article 1: Objectives

The objectives of this Understanding are to establish additional procedures to facilitate the effective use of Chapter Eight of the North American Free Trade Agreement (NAFTA).

Article 2: Working Group on Emergency Action

1. The Parties hereby establish a Working Group on Emergency Action comprising one representative of each Party to the NAFTA. The Working Group shall be deemed to be a working group established under Article 2001(2)(d) of the NAFTA.
2. The Working Group shall report to the Free Trade Commission established under the NAFTA, and shall be subject to the supervision of the Commission.
3. The NAFTA Secretariat shall provide technical support to the Working Group.
4. The Working Group shall meet at least annually, unless the Parties otherwise agree, and on request of any Party.
5. The Working Group may call on the assistance of such experts and advisers as it deems appropriate.
6. All decisions of the Working Group shall be taken by consensus, except as otherwise agreed or provided for in this Understanding.

Article 3: Functions of the Working Group

1. The Working Group shall consider any issue related to recourse to Chapter Eight of the NAFTA and may make recommendations to the Commission.
2. The Working Group shall consider any recourse to Article XIX of the General Agreement on Tariffs and Trade by any Party to the NAFTA, and, at the request of any Party, may serve as a forum for consultations before or during any such use of Article XIX.
3. The Parties may consult in the Working Group on the request of a Party where a Party considers that:
 - (a) in accordance with Article 801 or 802, goods originating in the territory of another Party are being imported in such increased quantities as to constitute a substantial cause of, or contribute importantly to, serious injury, or threat thereof, to its domestic industry, as evidenced by the factors set out in Annex 803.3(9) of the NAFTA, including trade, productivity, and employment; or
 - (b) another Party is contemplating having recourse to Chapter Eight.

Any consultations under this paragraph shall be without prejudice as to whether any subsequent emergency action proceeding is consistent with the NAFTA.

4. The Parties may agree that consultations under paragraph C shall constitute consultations under Article 801(2) or 802(5) of the NAFTA.

5. Subject to the rights and obligations of the Parties under the NAFTA, the Working Group shall serve as a forum for examining, at the request of any Party and with the agreement of two thirds of the Parties, trade, productivity, employment and other economic factors with respect to any good, provided that such discussions shall not serve as a justification for restricting or prohibiting trade in any manner inconsistent with Chapter Eight.

6. The Working Group may make recommendations to the Commission for any improvements to Chapter Eight of the NAFTA that the Working Group deems appropriate, consistent with the objectives of the NAFTA and of this Understanding.

Article 4: Definitions

Unless otherwise specified, all terms of this Understanding shall have the meaning assigned to them in the NAFTA.