CHAPTER 5 – TRADE REMEDIES

SECTION A – ANTI-DUMPING AND COUNTERVAILING DUTIES

ARTICLE 5.1 – General provisions

1. Each Party affirms its rights and obligations under the Anti-dumping Agreement and the SCM Agreement.

2. For the purposes of this Section, origin shall be determined in accordance with the non-preferential rules of origin of each Party.

ARTICLE 5.2 – Transparency

1. Each Party shall conduct its anti-dumping and countervailing duty investigations in a fair and transparent manner in accordance with the requirements in the Anti-dumping Agreement and SCM Agreement.

2. Each Party shall ensure that meaningful disclosure is made on the date of the imposition of provisional measures or immediately thereafter, and before a final determination is made. Each Party shall ensure that any disclosure:

(a) at the provisional stage, includes at least sufficient explanations of the reasons in fact and law which have led to arguments being accepted or rejected;

(b) at the final stage, is a full and meaningful disclosure of all essential facts and considerations, which form the basis for the decision to apply definitive measures;

(c) is made in writing; and

(d) allows interested parties sufficient time to make their comments.

3. Both Parties reaffirm that non-confidential summaries shall be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. This Article is without prejudice to Article 6.5 of the Anti-dumping Agreement and Article 12.4 of the SCM Agreement.

4. Provided it does not unnecessarily delay the investigation, each interested party shall be granted the possibility to provide information orally in order to express its views during trade remedy investigations. The Parties reaffirm their rights and obligations under Article 6.2 of the Anti-dumping Agreement relating to hearings and the right to provide information orally.

5. When making a final determination, each Party shall take into account the information duly provided by all interested parties, including the domestic industry, importers and their representative associations, representative users and representative consumer organisations, as defined pursuant to each Party's laws and regulations.

ARTICLE 5.3 – Lesser duty rule

Should a Party decide to impose an anti-dumping duty, the amount of such duty shall not exceed the margin of dumping and, subject to each Party's laws and regulations, should in principle be less than that margin of dumping if such lesser duty would be adequate to remove the injury to the domestic industry.

ARTICLE 5.4 – Non-application of dispute settlement

Chapter 24 (Dispute settlement) does not apply to this Section.