

**TRADE REMEDIES BILL, 2025***(Bill No. 6 of 2025)***EXPLANATORY STATEMENT OF OBJECTS AND REASONS**

The purpose of this Bill is to provide for a legislative framework, in compliance with the international trade agreements on trade remedies. These agreements allow for the contingent remedies of anti-dumping, countervailing, or safeguard measures to be available to protect Seychelles against injury caused to its domestic industries by like dumped or subsidized imports, or from significant and sudden increases in like or directly competitive imports causing serious injury to its domestic industries.

In order to create this framework, the Bill establishes an inter-agency committee referred to as the Trade Remedies Committee, which shall be responsible for the implementation of this law and shall be assisted by the Trade Division (in the ministry responsible for trade), as the Investigating Unit. The Trade Division shall be responsible for conducting trade remedies investigations, and presenting its findings to the Trade Remedies Committee for its determination; thereafter, the investigation report shall be submitted to the Minister with the recommendations of the Committee to take the final decision.

The Bill defines the concerned executive entities and types of measures, and provides or regulates provisions on anti-circumvention, imposition and collection of the measures, public interest, and confidentiality treatment of information. The Bill provides for disciplines on the competent court and grievances, and appeals against the decisions of the Trade Division, the Trade Remedies Committee, or the Minister.

The Bill makes provision for all issues related to the requirements for the filing and accepting of complaints, and requesting and initiating investigations and reviews. The Bill makes provision for all issues related to the determination of subsidisation, calculations of dumping, and analysis of significant and sudden increases in like or directly competitive imports to determine serious injury. The Bill also incorporates provisions related to the

rights and obligations of the concerned parties and public interest persons in investigations.

**Dated this 2<sup>nd</sup> day of June, 2025.**

**AHMED AFIF  
VICE PRESIDENT/MINISTER OF FINANCE,  
NATIONAL PLANNING AND TRADE**

---

**TRADE REMEDIES BILL, 2025***(Bill No. 6 of 2025)***ARRANGEMENT OF SECTIONS****Sections****PART I  
PRELIMINARY**

1. Short title
2. Interpretation

**PART II  
COMMITTEE AND INVESTIGATING UNIT**

3. Establishment of Trade Remedies Committee
4. Functions of Committee
5. Conduct of Committee members
6. Procedure for meetings of Committee
7. Establishment of the Trade Division as Investigating Unit
8. Functions of Trade Division as Investigating Unit
9. Functions of Minister
10. Powers conferred on Committee, Trade Division and Minister by other laws.

**PART III  
DUMPING**

11. Determination of dumping
12. Normal value to be comparable price paid or payable
13. No export price or unreliable export price
14. Fair comparison
15. Comparison between normal value and export price
16. Normal value on weighted average basis
17. Justification for determination
18. Margin of dumping for each known foreign producer or exporter
19. Different legal entities treated as single entity to determine margin of dumping

20. Anti-dumping duty not included in the examination not exceeding the weighted average margin
21. Margin of dumping for exporter or producer not included in examination
22. Non-imposition of anti-dumping measures
23. Further considerations

#### **PART IV SUBSIDIES AND COUNTERVAILING DUTIES**

24. Existence of subsidy
25. No export price or unreliable export price
26. Countervailing subsidy
27. Countervailing measures

#### **PART V SAFEGUARDS**

28. Imposition of safeguard measure
29. Non-imposition of safeguard measure
30. Imports from countries excluded from safeguard measures
31. Agricultural safeguards

#### **PART VI INJURY**

32. Non imposition of anti-dumping or countervailing measure
33. Non imposition of safeguard measure
34. Injury in anti-dumping and countervailing investigation
35. Injury in safeguard investigation

#### **PART VII CAUSALITY**

36. Causality
37. Other known factors establishing causal relationship

## **PART VIII**

### **INVESTIGATION AND DECISION MAKING PROCEDURES**

#### *Sub-Part A: Preliminary*

- 38. Application of anti-dumping, countervailing or safeguard measures
- 39. Exclusion as domestic industry
- 40. Territory divided into two or more competitive markets
- 41. Industries with exceptionally large numbers of producers

#### *Sub-Part B: Investigation procedure*

- 42. Initiation of investigation
- 43. Assessment of application
- 44. Notification to Government of exporting country in anti-dumping and countervailing investigations
- 45. Decision of Committee to initiate preliminary investigation
- 46. Notification to all interested parties and WTO Committee on Safeguards
- 47. Withdrawal of application by domestic producer

#### *Sub-Part C: Preliminary Investigation*

- 48. Preliminary investigation
- 49. Confidentiality of information submitted
- 50. Committee decision revealing confidential information
- 51. Technical meetings
- 52. Maintaining of files by Investigating Unit
- 53. Preliminary determination of Committee and provisional measures
- 54. Separate preliminary reports
- 55. Provisional measures
- 56. Price undertaking

#### *Sub-Part D: Final Investigation*

- 57. Initiation of final investigation
- 58. Time limit within which to conduct investigation
- 59. Limiting investigation
- 60. Deficiencies in information furnished

61. Determination in light of interested parties refusing to corporate
62. Opportunity for industrial users and consumer organization to give information in investigation
63. Notification of interested parties of all essential facts
64. Finalisation of investigation
65. Publication of preliminary and final determinations
66. Definitive measures
67. Duration of trade measures

## **PART IX REVIEWS**

68. Sunset Reviews
69. Changed circumstances reviews
70. New shipper reviews
71. Anti-circumvention reviews
72. Progressive liberalisation reviews
73. Mid-term reviews
74. Extension review
75. Amendment of decision
76. Tribunal review
77. Appeal to Supreme Court

## **PART X GENERAL**

78. Protection of action taken in good faith
79. Regulations
80. Divulging confidential information
81. Giving false, misleading or fraudulent information

**TRADE REMEDIES BILL, 2025***(Bill No. 6 of 2025)***A BILL  
FOR**

**AN ACT TO PROVIDE FOR A FRAMEWORK FOR THE IMPLEMENTATION OF TRADE REMEDIES IN LINE WITH INTERNATIONAL TRADE AGREEMENTS TO WHICH SEYCHELLES IS A PARTY; TO PROVIDE FOR THE ESTABLISHMENT OF A TRADE REMEDIES COMMITTEE; TO PROVIDE FOR THE DESIGNATION OF THE TRADE DIVISION IN THE MINISTRY RESPONSIBLE FOR TRADE AS THE INVESTIGATING UNIT; TO PROVIDE FOR THE PROTECTION OF THE DOMESTIC INDUSTRY FROM INJURY CAUSED BY LIKE DUMPED AND SUBSIDIZED IMPORTS, AND FROM SERIOUS INJURY CAUSED BY SIGNIFICANT AND SUDDEN INCREASES IN LIKE OR DIRECTLY COMPETITIVE IMPORTS; TO PROVIDE FOR THE PROCEDURES TO BE FOLLOWED IN MAKING APPLICATIONS, AND CARRYING OUT OF INVESTIGATIONS; AND FOR OTHER CONNECTED OR INCIDENTAL MATTERS.**

**ENACTED BY THE PRESIDENT AND THE NATIONAL ASSEMBLY**

**PART I  
PRELIMINARY****Short title**

1. This Act may be cited as the Trade Remedies Act, 2025.

## Interpretation

2. In this Act, unless the context otherwise requires, —

“agricultural safeguard” means a temporary measure imposed against specific agricultural products once the volume of imports of those products has met a pre-determined threshold;

“anti-dumping duty” means a duty imposed in order to offset the margin of dumping or the detrimental effects of imports determined to be dumped;

“Cost, Insurance and Freight” or “CIF” means cost, insurance and freight indicating the price of an imported product when it arrives at a Seychelles port of entry inclusive of all costs up to that point;

“Committee” means the Trade Remedies Committee established under section 3;

“confidential information” means information that —

- (a) is by nature confidential, including trade, business or industrial information that —
  - (i) belongs to a person or to the Republic;
  - (ii) has a particular economic value;
  - (iii) is not generally available to or known by other persons and the disclosure of which could —
    - (A) result in a significant adverse effect upon the submitter of the confidential information or upon the person to whom the information relates; or
    - (B) give a significant competitive advantage to a competitor of the owner; or



- (b) is deemed to be by nature confidential according to the following types of information —
- (i) any business or trade secrets concerning the nature of a product, production processes, operations, production equipment, or machinery;
  - (ii) any information concerning the financial condition of a company which is not publicly available;
  - (iii) any information concerning the costs, identification of customers, sales, inventories, shipments, or amount or source of any income, profit, loss or expenditure related to the manufacture and sale of a product.

“countervailing duty” means a duty imposed to offset the margin of subsidy or the detrimental effects of imports determined to be subsidised;

“domestic industry” means —

- (a) in the case of anti-dumping or countervailing investigations, the domestic producers as a whole of the like products or those of them whose collective output of the products constitutes a major proportion of the total domestic production of those products; where producers are related to the exporters or importers or are themselves importers of the subject product, the term “domestic industry” may be interpreted as referring to the rest of the producers; or
- (b) in the case of safeguard investigations, the producers as a whole of the like or directly competitive products operating within the territory of an exporting country, or those whose collective output of the products constitutes a major proportion of the total domestic production of those products.

“duties” has the meaning inferred in section 2 of the Customs Management Act (*Act No. 22 of 2011*);

“exporter” means any person that exports a product from a country or territory outside of Seychelles, to Seychelles, or another person that causes the exports to take place;

“export price” means —

- (a) in relation to anti-dumping investigations, the price actually paid or payable for goods sold for export to Seychelles, net of all taxes, discounts and rebates actually granted and directly related to that sale;
- (b) in relation to countervailing and safeguard investigations, the CIF value of the imported products;

“GATT 1994” means the World Trade Organisation General Agreement on Tariffs and Trade signed in Marrakesh, Morocco in April 1994;

“importer” means a person by or for whom goods are imported, including an owner of a pipeline, a consignee of goods or a person who is or becomes the owner of, or entitled to the possession of, or beneficially interested in, any goods on or at any time after their importation before the goods ceased to be subject to the control of Customs;

“injury” means —

- (a) in relation to anti-dumping and countervailing investigations means actual or present material injury, a threat of material injury or the material retardation of the establishment of a domestic industry; and
- (b) in relation to safeguard investigations means actual or present serious injury or a threat of serious injury to the domestic industry;

“interested party” includes —

- (a) in relation to anti-dumping and countervailing investigations, domestic producers and trade or business associations a majority of the members of which produce the like product;
- (b) in relation to safeguard cases, domestic producers and trade or business associations a majority of the members of which produce the like or directly competitive product, in Seychelles;
- (c) the importer of a subject product or a trade or business association a majority of the members of which are importers of the product;
- (d) exporters or foreign producers of a subject product, or a trade or business association a majority of the members of which are producers or exporters of the product; or
- (e) the government of the exporting country:

Provided that, in safeguard investigations, a party under (c) and (d) shall only be regarded to be an interested party if the party has declared its interest to participate in an investigation within the prescribed time, and, with respect to (e), provided that the government has a substantial interest in the matter.

“Investigating Unit” means the Trade Division in the Ministry responsible for trade as designated under section 7 of this Act;

“lesser duty” means a duty lower than the margin of dumping or the margin of subsidy that would be sufficient to remove any injury caused by dumping or subsidised imports;

“like product”, for the purposes of anti-dumping and countervailing investigation, means a product which is identical, that is, alike in all respects to the product under consideration or,

in the absence of such product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration;

“like or directly competitive product”, in relation to safeguard investigation, means a product which is identical, that is alike in all respects to the product under consideration, or in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration or, in the absence thereof, another product that competes directly with the subject product;

“margin of dumping” means the difference between the normal value and the export price of a product after all adjustments have been made to both values;

“margin of subsidy” means the totality of all subsidies determined on a per-unit basis and divided by the invoiced CIF export price;

“Minister” means the Minister responsible for trade;

“period of investigation” —

- (a) for the calculation of the margin of dumping or subsidy, should normally be twelve months, and in any case no less than six months, ending as close to the date of initiation as is practicable, and this period should be included in the period of investigation for injury;
- (b) for anti-dumping investigations shall coincide in a particular investigation with the period of data collection for investigating sales below cost;
- (c) for safeguard investigations, shall normally be thirty-six months, ending as close to the date of initiation as is practicable;
- (d) for the determination of injury in all trade remedy

investigations, should normally be thirty six months, ending as close to the date of initiation as is practicable;

“price undertaking” means a voluntary price undertaking by —

- (a) an exporter in an anti-dumping investigation to eliminate the margin of dumping or the injury caused by the dumping; or
- (b) an exporter or the government of the exporting country in a countervailing investigation to eliminate the margin of subsidy or the injury caused by subsidised exports;

“Principal Secretary” means the Principal Secretary responsible for trade;

“producers” includes manufacturers and growers;

“provisional measure”, in relation to anti-dumping, countervailing or safeguard, relates to a provisional duty or payment imposed by the Minister to protect the domestic industry against further injury while the investigation is being conducted;

“public body” includes a person or body that acts on behalf of the government of, or another public body within, an exporting country and that carries out one or more of the functions which would normally be vested in the government;

“public file” means a file containing all information in an investigation that is not treated as confidential and to which interested parties or the public may obtain access;

“quota” means a volume-based safeguard measure imposed to regulate the volume of imports of the subject product that may enter Seychelles in any given period;

“safeguard measure” means a temporary measure imposed against a surge of imports as a result of unforeseen developments

and the effect of obligations, including concessions, Seychelles has undertaken in the WTO, causing serious injury or a threat thereof to the domestic industry producing the like or directly competitive product. to allow the industry to adapt to fair international trade and may consist of a safeguard duty beyond the bound tariff level in Seychelles' WTO schedule of concessions, a quota or a tariff quota;

“serious injury” means the significant overall impairment of the domestic industry;

“Standard Scale” means the standard scale of fines for offences established under the Criminal Offences (Standard Scale of Fines) Act, 2021

“subject product” means a product that is under investigation;

“subsidy” means any financial contribution within the meaning of Article 1.1(a)(1) of the WTO Agreement on Subsidies and Countervailing Measures, whether direct or indirect, by a government or any public body within the territory of the exporting country subject to a countervailing investigation or any form of price income or price support in the sense of Article XVI of GATT 1994, provided that a benefit is conferred thereby;

“Supreme Court” means the Supreme Court of Seychelles established under article 125 of the Constitution;

“tariff quota” means a safeguard measure providing for a quota within which a determined customs duty shall apply, with a different customs duty applying to goods imported outside of the quota;

“Tribunal” means the Fair Trading Tribunal established under section 14 of the Fair Trading Act 2022;

“trade remedies” means the contingent remedies of anti-dumping, countervailing or safeguard measures available to

protect the domestic industry against international trade causing injury to the domestic industry; and

“World Trade Organisation” or “WTO” means the World Trade Organisation as established in the Marrakesh Agreement signed on 15 April 1994 in Morocco.

## **PART II**

### **COMMITTEE AND INVESTIGATING UNIT**

#### **Establishment of Trade Remedies Committee**

**3.(1)** There is established an inter-agency Committee known as the Trade Remedies Committee.

**(2)** The Committee shall consist of the following members appointed by the Minister —

- (a)** the Principal Secretary (*ex officio*);
- (b)** a representative from the Ministry responsible for industry;
- (c)** a representative from the Ministry responsible for agriculture;
- (d)** a representative from the Seychelles Customs;
- (e)** a representative from the Fair Trading Commission; and
- (f)** not more than four members from Government, academics or civil society.

**(3)** The Minister shall appoint the Chairperson, and the members appointed shall elect from amongst themselves a Vice Chairperson.

**(4)** The Minister shall appoint the members of the Committee under subsection 2(f) based on their knowledge and expertise in international trade,

trade law, economics, accounting, commerce, agriculture, industry or public affairs and on such terms and conditions as the Minister may determine.

(5) A person shall be eligible for appointment as a member of the Committee under subsection 2(f) if that person is of integrity.

(6) A person shall not be appointed as a member of the Committee if that person —

- (a) is an office-bearer or an employee of a political party;
- (b) is an undischarged insolvent;
- (c) has been found to be of unsound mind; or
- (d) has been convicted and served a sentence of imprisonment for a term of six months or more for an offence involving fraud, dishonesty or moral turpitude.

### **Functions of Committee**

4.(1) The functions of the Committee shall be to —

- (a) instruct the Investigating Unit to initiate investigations under this Act;
- (b) make preliminary determinations under section 53;
- (c) conduct formal hearings under section 64;
- (d) make final determinations in the form of recommendations to the Minister under section 64;
- (e) recommend the Minister to take decisions on the definitive collection of provisional measures following the conclusion of an investigation;
- (f) recommend the Minister to take decisions regarding the retroactive application of measures; and



- (g) determine the amount, if any, to be refunded to the applicant in a refund application;
- (h) advise the Minister on any issues related to trade remedies.

(2) The Committee may issue guidelines on any matter within its jurisdiction and on the procedures to be followed by the Investigating Unit.

### **Conduct of Committee members**

5.(1) A Committee member shall serve impartially and independently and shall exercise or perform his or her function in good faith, without fear, favour, bias or prejudice subject to the Constitution, this Act or any written law.

(2) A member of the Committee shall not engage in any activity that may undermine the integrity, impartiality, credibility and independence of the Committee.

(3) A member of the Committee shall not, without the written consent of the Committee, publish or disclose to any person other than in the course of the member's duty, the content of any document, communication or information which relates to and which has come to the member's knowledge in the course of his or her duties as a member of the Committee.

(4) A member of the Committee shall disclose in writing to the members of the Committee any financial interest or any similar personal interest in a matter under investigation, being heard or decided by the Committee.

(5) Where at any time it appears to a member of the Committee that a matter before the Committee concerns the financial or personal interest of that member, the member shall immediately fully disclose the interest to the Chairperson, or in the case of the chairperson, to the Vice Chairperson.

(6) A member of the Committee who has disclosed an interest under subsection (5) shall be discharged from participating in any matter in respect of which he or she has made the disclosure.

(7) A member of the Committee shall not make private use of, or profit from, any confidential information obtained as a result of performing his or her function or the position he or she holds.

(8) Any member of the Committee who fails to comply with subsections (1), (2), (3), (4), (5), and (7) shall be guilty of an offence and liable to a fine not exceeding level 4 on the Standard Scale of fines, or imprisonment not exceeding six months, or both fine and imprisonment.

(9) In addition to a penalty in terms of subsection (8), the member found guilty shall be removed from being a member and cannot be appointed for any other term.

### **Procedure for meetings of Committee**

6.(1) The Chairperson shall convene the first meeting of the Committee and preside at that meeting.

(2) Where after the first meeting the Chairperson and the Vice Chairperson are absent, the members present at the meeting shall elect a person from amongst the members to preside at the meeting.

(3) The quorum for a meeting of the Committee shall be five members out of the total membership of the Committee.

(4) The decision of the Committee shall be taken by a majority of votes of members present in the meeting and in the case of an equality of votes the Chairperson or the person presiding over the meeting shall have a casting vote.

(5) The Committee shall determine its own procedures with due regard to the principle of transparency.

### **Designation of Trade Division as Investigating Unit**

7.(1) The Trade Division, in the Ministry responsible for trade is hereby designated as the investigating unit for the purposes of this Act and shall be responsible for the carrying out of the day to day activities of the Committee.

(2) The Director General of the Trade Division may co-opt other persons who have specialised knowledge or experience in the field of trade to assist the Investigating Unit as and when they are required who shall be paid fees or allowances as may be determined by the Minister.

### **Functions of Investigating Unit**

8. The functions of the Investigating Unit shall be to —

- (a) receive applications from parties filing a complaint to the Committee; and
- (b) transmit the applications to the Committee for consideration.
- (c) conduct all investigations under this Act;
- (d) receive, determine and evaluate the adequacy and accuracy of any application and other information furnished by an interested party;
- (e) assess requests relating to confidentiality of information;
- (f) take action on a decision of the Committee to maintain the confidentiality of certain information;
- (g) make decisions related to administrative procedures, including extensions of investigations;
- (h) liaise with interested parties and engage with interested parties for the purpose of clearing any discrepancy in the application made by the domestic industry under section 10;
- (i) prepare essential facts reports, public reports and notices, including notifications to relevant WTO Committees;
- (j) any other function as may be instructed by the Committee.

## Functions of Minister

9.(1) The functions of the Minister under this Act shall include —

- (a) upon the application of the domestic industry or Committee to endorse or refuse to endorse a price undertaking;
- (b) to give all final decisions in investigations;
- (c) to direct or determine the commencement of a sunset review to be conducted;
- (d) upon the recommendation of the Committee, to request the Commissioner of Customs to impose a provisional measure, including the level and duration of such measure; and
- (e) to instruct the Commissioner of Customs to impose a definitive measure, including the level and duration of such measure.

(2) The Minister may issue policy directions as may be required for the purpose of this Act.

## Powers conferred on Committee, Investigating Unit and Minister by other laws

10. Nothing in this Act shall prevent the Investigating Unit from conducting any trade remedy investigations, and the Committee or the Minister from making any decision, on any measures to protect an infant industry, under any free or preferential trade agreement to which Seychelles is a party.

## PART III DUMPING

### Determination of dumping

11.(1) A product shall be considered as being dumped, if the export price of the product exported from one country to another is less than the

comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country.

(2) The Minister may, at the conclusion of an anti-dumping investigation, impose an anti-dumping measure on such imports of products identified in subsection (1).

### **Normal value comparable to price paid or payable**

**12.(1)** The normal value shall be the comparable price paid or payable in the ordinary course of trade for like products destined for consumption in the exporting country or country of origin.

(2) Notwithstanding subsection (1), where there are no sales of the like product in the ordinary course of trade in the domestic market of the exporting country or where, because of the particular market situation or the low volume of the sales in the domestic market of the exporting country such sales do not permit a proper comparison, the normal value shall be —

- (a) the cost of production of the like product in the country of origin when destined for domestic consumption, plus a reasonable addition for selling, general and administrative costs and for profit; or
- (b) the comparable price of the like product when exported to an appropriate third country, as long as that price is representative.

### **No export price or unreliable export price**

**13.** Where there is no export price or where it appears to the Investigating Unit that the export price is unreliable because of association or a compensatory arrangement between the exporter and the importer or a third party, the export price may be constructed on the basis of the price at which the imported products are first resold to an independent buyer, or if the products are not resold to an independent buyer, or not resold in the condition as imported, on such reasonable basis as the Investigating Unit may determine.

### **Fair comparison**

14. The Investigating Unit shall, in determining the margin of dumping of goods, make reasonable allowance for differences in conditions and terms of sale, differences in taxation and other differences affecting price comparability to ensure a fair comparison between the normal value and the export price.

### **Comparison between normal value and export price**

15. The comparison between the normal value and the export price of a product under consideration shall be the weighted average normal value with a weighted average of prices of all comparable export transactions or by a comparison of normal value and export prices on a transaction basis.

### **Normal value on weighted average basis**

16. A normal value established on a weighted average basis may be compared to prices of individual export transactions where the Investigating Unit finds a pattern of export prices which differ significantly among different purchasers, regions or time periods provided that an explanation is given as to why these differences cannot be taken into account appropriately by the use of a weighted-average or transaction-to-transaction comparison.

### **Justification for determination**

17. Where the Investigating Unit has determined the margin of dumping it shall give reasons for its determination in all subsequent published determinations.

### **Margin of dumping for each known foreign producer or exporter**

18. Subject to section 48, an individual margin of dumping shall be determined for each known foreign producer or exporter of the product under investigation.

### **Different legal entities treated as single economic entity to determine margin of dumping**

19. For the purpose of determining the individual margin of dumping and of applying anti-dumping duties, different legal entities may be treated as a

single economic entity when it is demonstrated that the structural and trade relationship between such entities or with a third entity is sufficiently close, and any determination to treat various legal entities as a single one shall be based on facts and an explanation shall be included in the published reports.

### **Anti-dumping duty not included in examination not exceeding weighted average margin**

**20.** Where the Investigating Unit has limited its examination in accordance with section 59, any anti-dumping duty applied to imports from exporters or producers not included in the examination shall not exceed the weighted average margin of dumping established with respect to the selected exporters or producers, provided that the Investigating Unit shall disregard for the purpose of this section any zero and *de minimis* margins and margins established under section 59.

### **Margin of dumping for exporter or producer not included in examination**

**21.(1)** The Investigating Unit shall determine an individual margin of dumping for any exporter or producer not included in the examination, where the exporter or producer has provided the necessary information within the prescribed deadlines during the course of the investigation.

(2) Notwithstanding subsection (1), where the number of exporters or producers are so large that individual examinations would be unduly burdensome to the Investigating Unit and prevent the timely completion of the investigation, the Investigating Unit may decide to not make individual determination for exporters and producers.

### **Non-imposition of anti-dumping measures**

**22.** The Minister shall not impose an anti-dumping measure where—

- (a) the margin of dumping is less than 2 *per centum* of the ex-factory export price; or
- (b) the volume of dumped imports from a country is less than 3

*per centum* of the total volume of imports of the like product into Seychelles,

unless countries which individually account for less than 3 *per centum* of such imports collectively account for more than 7 *per centum* of imports of the like product into Seychelles.

### **Further considerations**

**23.** Further provisions relating to dumping shall be as prescribed in Regulations.

## **PART IV SUBSIDIES AND COUNTERVAILING DUTIES**

### **Existence of a subsidy**

**24.** A subsidy shall be deemed to exist, where —

- (a) there is a financial contribution within the meaning of Article 1.1(a)(1) of the WTO Agreement on Subsidies and Countervailing Measures, whether direct or indirect, by a government within the territory of the exporting country or country of origin; or
- (b) there is any form of income or price support in the sense of Article XVI of GATT 1994;

and a benefit is consequently conferred.

### **No export price or unreliable export price**

**25.** Where there is no export price or where it appears to the Investigating Unit that the export price is unreliable because of an association or a compensatory arrangement between the exporter and the importer or a third party, the export price may be constructed on the basis of the price at which the imported products are first resold to an independent buyer, or if the products are not resold to an independent buyer, or not resold in the condition as imported, on such reasonable basis as the Investigating Unit may determine.



### Countervailing subsidy

**26.** A subsidy shall be countervailed where it is specified and in terms of prescribed Regulations.

### Countervailing measures

**27.** The Minister shall not impose a countervailing measure where —

- (a) the margin of subsidy for developing countries is less than 2 *per centum* of the export price and for developed countries is less than 1 *per centum* of the export price; or
- (b) the volume of subsidised imports is negligible and, in the case of a developing country, it is less than 4 *per centum* of the volume of imports of the like product in Seychelles, unless countries which individually account for less than 4 *per centum* of the imports of the like product into Seychelles collectively account for more than 9 *per centum* of imports of the like product in Seychelles.
- (c) the Committee finds that a subsidy is not specific within Articles 2.1, 2.2 and 2.3 of the WTO Agreement on Subsidies and Countervailing Measures.

## PART VI SAFEGUARDS

### Imposition of safeguard measure

**28.** The Minister shall impose a safeguard measure, where it is shown that —

- (a) there has been a sudden and significant increase in imports; and
- (b) the increase in imports was caused by developments that were unforeseen at the time Seychelles concluded its WTO concessions; and

- (c) the domestic industry producing the like or directly competitive product is experiencing serious injury or a threat of serious injury; and
- (d) the injury is caused by the increased imports.

### **Non-imposition of safeguard measures**

**29.** The Minister shall not apply a safeguard measure against a developing country where its share of imports of the product concerned into Seychelles does not exceed 3 *per centum*, provided that developing countries with less than 3 *per centum* import share collectively account for not more than 9 *per centum* of total imports of the product concerned.

### **Imports from countries excluded from safeguard measures**

**30.** Imports from a developing country excluded from the application of a safeguard measure shall immediately become subject to a safeguard measure where imports from that country increase subsequent to the imposition of a safeguard measure to more than 3 *per centum* of total imports during the original investigation period.

### **Agricultural safeguards**

**31.** An agricultural safeguard may be applied to agricultural products where Seychelles has reserved the right to use an agricultural safeguard on that product in trade agreements that it is party to or where the WTO has approved the use of agricultural safeguards irrespective of whether the right to use such safeguards has been reserved.

## **PART VI INJURY**

### **Non imposition of anti-dumping or countervailing measure**

**32.** The Minister shall not impose an anti-dumping or countervailing measure on a subject product, unless it has been shown that the domestic industry is experiencing —

- (a) material injury;
- (b) a threat of material injury; or
- (c) the material retardation of the establishment of an industry.

### **Non-imposition of safeguard measures**

**33.** The Minister shall not impose a safeguard measure on a subject product unless it has been shown that the domestic industry is experiencing —

- (a) serious injury; or
- (b) a threat of serious injury.

### **Injury in anti-dumping and countervailing investigation**

**34.(1)** The determination of injury in anti-dumping and countervailing investigations shall be based on positive evidence and an objective examination of —

- (a) the volume of the dumped or subsidized imports and the effect of the dumped or subsidised imports on prices in the domestic market for like products; and
- (b) the consequent impact of these imports on domestic producers of such products.

(2) Where imports of a product from more than one country are simultaneously subject to anti-dumping or countervailing investigations, the Investigating Unit may cumulatively assess the effects of imports where it determines that —

- (a) the margin of dumping or subsidy established in relation to the imports from each country is more than *de minimis* and the volume of imports from each country is not negligible; and

- (b) a cumulative assessment of the effects of the imports is appropriate considering the conditions of competition between the imported products and the conditions of competition between the imported products and the like domestic product.

(3) Notwithstanding subsection (2) the Investigating Unit may make a cumulative assessment in respect of anti-dumping or countervailing investigations, and shall not make a cross-cumulation assessment between anti-dumping and countervailing investigations.

### **Injury in safeguard investigations**

**35.** The determination of a serious injury or a threat of serious injury in a safeguard investigation shall be based on positive evidence and an objective examination of —

- (a) the volume of the increased imports and the effect of the increased imports on prices in the domestic market for like or directly competitive products; and
- (b) the consequent impact of these imports on domestic producers of such products.

## **PART VII CAUSALITY**

### **Causality**

**36.(1)** The Investigating Unit shall determine causality where the it finds that the injury has been caused by the dumping, subsidisation or increased imports.

(2) The Investigating Unit shall determine the causal relationship between the imports and the injury to the domestic industry by examining all relevant evidence before it.

(3) The Investigating Unit shall examine any known factors other than the dumped, subsidised or increased imports, which are simultaneously

causing injury to the domestic industry and the injuries caused by these other factors must not be attributed to the dumped, subsidised or increased imports.

### **Other known factors establishing causal relationship**

**37.** Other known factors which may be relevant in determining the causal relationship under section 36 include —

- (a) contraction in demand or changes in the patterns of consumption;
- (b) trade restrictive practices of and competition between the foreign and domestic producers;
- (c) developments in technology;
- (d) the export performance and productivity of the domestic industry; and
- (e) in the case of anti-dumping and countervailing investigations, the volume and prices of imports not sold at dumped or subsidized prices, respectively.

## **PART VIII**

### **INVESTIGATION AND DECISION MAKING PROCEDURES**

#### ***Sub Part A: Preliminary***

#### **Application of anti-dumping, countervailing or safeguard measures**

**38.** The Minister shall only apply anti-dumping, countervailing or safeguard measures pursuant to and after an investigation initiated under this Part and conducted in accordance with the provisions of this Act.

#### **Exclusion as domestic industry**

**39.** Producers shall be deemed to be related to exporters or importers where —

- (a) one of them directly or indirectly controls the other;
- (b) both of them are directly or indirectly controlled by a third person; or
- (c) together they directly or indirectly control a third person,

Provided that there are grounds for believing or suspecting that the effect of the relationship is such as to cause the producer concerned to behave differently from non-related producers.

### **Territory divided into two or more competitive markets**

**40.** Notwithstanding section 39, the area of Seychelles may be divided into two or more competitive markets and the producers within each market may be regarded as a separate industry, where —

- (a) producers within each market sell all or almost all of their products in question in that market; and
- (b) demand in that market is not to any substantial degree supplied by producers of the product in question located elsewhere in Seychelles.

### **Industries with exceptionally large numbers of producers**

**41.** Where industries involve an exceptionally large number of producers, the Investigating Unit may determine the support or opposition for an application made under section 42 by referring to the largest number of producers that can be reasonably included in the investigation or by using statistically valid sampling techniques based on the information available to the Investigating Unit at the time of its finding.

## ***Sub-Part B: Investigation Procedure***

### **Initiation of investigation**

**42.(1)** An investigation may be initiated by the Investigating Unit *suo motu* or by a written application made by, or on behalf of, a domestic industry.

(2) Where on its own initiative, the Investigating Unit recommends the initiation of an investigation, the Investigating Unit shall ensure that an assessment has been conducted to determine whether there is sufficient evidence available and shall submit its assessment report to the Committee.

(3) An application by the domestic industry for an anti-dumping duty or a countervailing duty investigation shall be considered as being brought by or on behalf of a domestic industry where —

- (a) at least 25 *per centum* of the domestic industry by domestic production volume expressly support the application; and
- (b) of those domestic producers that express an opinion on the application, at least 50 *per centum* by domestic production volume support the application.

### **Assessment of application**

**43.(1)** The Investigating Unit shall conduct an assessment of all applications brought by or on behalf of the domestic industry and ensure that all applications are supported by *prima facie* evidence before initiating an investigation.

(2) Within seven working days after receiving the application, the Investigating unit must make a decision whether the application is accepted as submitted or request additional information from the applicant to permit acceptance of the application.

(3) The Investigating Unit shall examine the accuracy and adequacy of the evidence provided.

(4) The Investigating Unit shall, in determining whether there is *prima facie* evidence under subsection (1), examine the evidence in support for the application made by the domestic producers —

- (a) for like product in anti-dumping and countervailing investigations; or

- (b) for like and directly competitive products in safeguard investigations.

(5) The Investigating Unit shall, within thirty days from the date of acceptance of the application in terms of subsection (1) submit an assessment report to the Committee with its recommendation for or against the initiation of a preliminary investigation.

### **Notification to Government of exporting country in anti-dumping and countervailing investigations**

**44.(1)** Before formally initiating an anti-dumping or countervailing investigation under section 7, the Investigating Unit shall inform the Government of the exporting country that it has received an application supported by *prima facie* evidence under section 43.

(2) In countervailing investigations, in addition to the requirements under subsection (1), the Committee shall, before initiating an investigation, invite the Government of the exporting country for consultations to discuss the subsidies identified in the application with a view to clarifying the factual situation and to arriving at a mutually agreed solution, but such consultations shall not delay the initiation of an investigation and the consultations shall continue throughout the investigation.

### **Decision of Committee to initiate preliminary investigation**

**45.(1)** Subject to subsection (2), the Committee shall, after receiving and examining the assessment report submitted by the Investigating Unit in terms of section 46(3), decide on whether to initiate a preliminary investigation after being satisfied that —

- (a) the application made by the domestic industry is supported by *prima facie* evidence; or
- (b) a recommendation made by the Investigating Unit is supported by sufficient evidence.

- (2) The Committee shall present its recommendations to the Minister



within ten days from the date of receiving the report from the Investigating Unit.

(3) The Committee shall by notice published in the *Gazette* formalise the initiation of a preliminary investigation.

(4) The Committee shall thereafter instruct the Investigating Unit to conduct the preliminary investigation.

### **Notification to all interested parties and WTO Committee on Safeguards**

**46.(1)** After receiving the instruction under section 45(4) to conduct a preliminary investigation, the Investigating Unit shall —

- (a) in anti-dumping and countervailing investigations notify all known interested parties of the initiation of the preliminary investigation and provide them with the relevant documents; and
- (b) in safeguard investigations notify the WTO Committee on Safeguards of the initiation of the investigation within seven days from the date of the publication of the notice of initiation in the *Gazette* under section 45(3) and provide the WTO Committee on Safeguards with relevant documents.

(2) The notice shall be published in the *Gazette* under section 45 (3) and any correspondence from the Investigating Unit thereafter shall clearly indicate a reasonable period within which all known interested parties are to respond.

(3) In the case of an anti-dumping or countervailing investigation the response from all known interested parties shall where practicable include all the information which the authorities may require.

(4) All interested parties shall submit in writing to the Investigating Unit any document, affidavit or statement of the views of that party, or other relevant information, within the prescribed period.

(5) The Investigating Unit may grant extensions to individual interested parties for the submission of information on good cause shown.

### **Withdrawal of application by domestic producer**

**47.** Where a domestic producer withdraws an application made under section 51 to initiate an investigation before the Investigating Unit, or its support to an application after the preliminary investigation has been initiated, the Committee may —

- (a) terminate the investigation; or
- (b) disregard the withdrawal of support and continue with its investigation as if all requirements in section 41 have been met.

### ***Sub-Part C: Preliminary Investigation***

#### **Preliminary investigation**

**48.(1)** The Investigating Unit shall, upon receipt of an instruction from the Committee in terms of section 45 to conduct a preliminary investigation, conduct such preliminary investigation.

(2) Subject to section 60, the Investigating Unit shall during the course of an investigation satisfy itself as to the accuracy of the information supplied by interested parties.

(3) The Investigating Unit may request further or additional relevant information at any time during its investigation.

#### **Confidentiality of information submitted**

**49.(1)** When a person submits information to the Investigating Unit, such person may request that such information be treated as confidential and shall state the reasons why such information should be treated as confidential.

(2) A non-confidential summary of the information submitted for confidential treatment shall immediately be placed on the public file for

inspection pending the Investigating Unit's determination on confidentiality. If the information is not susceptible of summary, the submitting party shall explain why summarising is not possible.

(3) The Investigating Unit shall, within ten working days after the request is made, make a decision to treat or to refuse to treat the information referred to in subsection (1) as confidential information.

(4) Where the Investigating Unit determines that information is not confidential and does not require confidentiality treatment, the Investigating Unit shall inform the requesting party and give reasons why confidentiality treatment will not be granted.

(5) A person aggrieved by the decision of the Investigating Unit may within fourteen working days appeal to the Committee.

### **Committee decision revealing confidential information**

**50.(1)** Where in making its decision the Committee finds that the reasoning for its decision would reveal any confidential information, the Committee shall notify the Investigating Unit.

(2) Upon being notified under subsection (1), the Investigating Unit shall provide an advance copy of the proposed reasoning of its decision to the interested party whose confidential information would be exposed before publishing the decision and give the interested party reasonable time to comment on the information.

(3) Subject to subsection (6), the Committee, the Investigating Unit or a member of the Committee or the Investigating Unit shall not disclose confidential information obtained in the course of performing their functions under this Act to a third party.

(4) Notwithstanding subsection (3), where the information before the Investigating Unit or the Committee contains evidence of tax and customs fraud, the Investigating Unit or the Committee shall make such information available to the Commissioner General of the Seychelles Revenue Commission and the Commissioner of Customs.

(5) Subject to subsection (6), a Member of the Committee or Investigating Unit or a member of the Committee or the Investigating Unit who discloses confidential information obtained in the course of performing his or her function under this Act, commits an offence.

(6) Subsection (5) shall not apply to information disclosed —

- (a) in good faith by the Committee or the Investigating Unit or staff of the Committee or the Investigating Unit;
- (b) for the purpose of the proper administration or enforcement of this Act;
- (c) for the purpose of the administration of justice, including by providing information to —
  - (i) the Tribunal in a review under section 76 by the Tribunal;
  - (ii) a Tribunal in a judicial review; or
  - (iii) the WTO in a dispute declared against Seychelles; and
  - (iv) at the request of an investigation officer or member of the Committee entitled to receive the information.

### **Technical meetings**

**51.(1)** An interested party may request a technical meeting with the Investigating Unit to discuss an investigation.

(2) Subject to confidentiality requirements, all information discussed during a technical meeting shall be placed on the public file within seven days from the technical meeting.

(3) Where one or more interested parties request a technical meeting under subsection (1), there shall be no obligation on other interested parties to

attend the technical meeting, and there shall be no adverse inference drawn from the failure to attend.

(4) Where an interested party, after being notified of the technical meeting, fails to attend a technical meeting, the absence shall be deemed to be a waiver of the interested party's right to be at the meeting and no adverse inference may be drawn on the continuation of the investigation from such absence.

### **Maintaining of files by Investigating Unit**

**52.(1)** The Investigating Unit shall maintain an investigation file and a public file during the course of all investigations.

(2) The investigation file shall —

- (a) contain all information, both confidential and non-confidential, obtained by the Investigating Unit during the course of an investigation, including communications with the Committee;
- (b) be strictly limited in access to the Investigating Unit and, to the extent necessary, the Committee; and
- (c) in the case of appeals, be furnished to the Tribunal, where no interested party shall have access to the file.

(3) The public file shall —

- (a) contain all non-confidential information obtained during the course of an investigation; and
- (b) be accessible to all interested parties in an investigation.

(4) Interested parties shall have access to the public file during working hours throughout the investigation, and may make copies of documents from the public file and prepare presentations on such information.

### **Preliminary determination of Committee and provisional measures**

**53.(1)** After completion of a preliminary investigation, the Investigating Unit shall prepare and submit to the Committee a technical report based on the evidence furnished by interested parties and recommend —

- (a) the imposition of a provisional anti-dumping, countervailing or safeguard measure; or
- (b) a price undertaking between the domestic industry and the exporter in the case of an anti-dumping investigation; or
- (c) such other recommendation as may be necessary.

(2) The Committee, on receipt of the technical report of the Investigating Unit, shall make a preliminary determination based on the recommendation of the Investigating Unit and may —

- (a) recommend to the Minister to impose provisional anti-dumping, countervailing or safeguard measures;
- (b) instruct the Investigating Unit to initiate a final investigation.

(3) The Minister may, upon the recommendation of the Committee, instruct the Commissioner of Customs to impose provisional anti-dumping, countervailing or safeguard measures.

### **Separate preliminary reports**

**54.** The Investigating Unit shall, subject to the confidentiality requirements, publish a separate report of all preliminary decisions detailing the findings and conclusions reached on all relevant issues of fact and law considered in the preliminary investigation.

### **Provisional measures**

**55.** Where the Committee is of the opinion that, despite the imposition of provisional measures, further injury may be caused during the

course of an investigation, or that a threat of injury may culminate in actual injury while an investigation is in progress, and provided all substantive requirements for the imposition of a provisional measure are met, the Committee may recommend to the Minister to request the Commissioner of Customs to impose a provisional payment in the amount and for the duration indicated in any such request.

### **Price undertaking**

**56.(1)** Where, after a preliminary anti-dumping or countervailing duty investigation, the Investigating Unit finds that there may be a possibility of a price undertaking between the domestic industry and the exporter, the Investigating Unit may make such recommendation to the Committee as it may consider appropriate.

(2) Upon receipt of the recommendation for a price undertaking, the Committee may recommend or refuse to recommend to the domestic industry to negotiate a price undertaking with the exporter.

(3) Where the Committee refuses to recommend the price undertaking, the Committee shall continue with the normal procedure in section 52.

(4) Where a domestic industry reaches a consensus with the exporter in having a price undertaking, the domestic industry shall submit the proposed price undertaking to the Committee.

(5) Where the domestic industry fails to reach a consensus with the exporter, the domestic industry shall report to the Committee.

(6) The Committee shall submit the price undertaking proposal to the Minister for endorsement before an agreement may be entered into.

### ***Sub-Part D: Final Investigation***

#### **Initiation of final investigation**

**57.** After receiving the technical report submitted by the Investigating Unit in terms of section 46(3) the Committee shall decide to initiate a final

investigation after examining the preliminary report of the Investigating Unit and being satisfied that —

- (a) the application made by the domestic industry is supported by *prima facie* evidence; or
- (b) a recommendation made by the Investigating Unit is supported by sufficient evidence.

### **Time limit within which to conduct investigation**

**58.(1)** Anti-dumping or countervailing investigations shall after their initiation be concluded —

- (a) within one year; or
  - (b) in special circumstances, within eighteen months.
- (2) Safeguard investigations shall after their initiation be concluded —
- (a) within nine months; or
  - (b) in special circumstances, within twelve months.

(3) Where the period of one year in anti-dumping and countervailing investigations and the period of nine months in safeguard investigations are exceeded, the Investigating Unit shall provide an explanation of the special circumstances that led to the extension of the investigation.

### **Limiting investigation**

**59.** The Investigating Unit may limit its investigation to a reasonable number of interested parties or products by using samples which are statistically valid at the time of the selection, or limit to the largest percentage of the volume of the exports from the country in question which can reasonably be investigated in anti-dumping and countervailing cases where the number of exporters, producers or types of products involved are exceptionally large at the time of the selection.



### **Deficiencies in information furnished**

**60.** Where any submission contains deficiencies, or where further clarification is required at any stage of an investigation, the Investigating Unit shall identify all such deficiencies or information to be clarified and provide the supplier of the submission an opportunity to address the deficiencies identified or provided.

### **Determination in light of interested parties refusing to cooperate**

**61.** The Committee may make a preliminary or final determination on the facts available where an interested party refuses to give access to or to provide necessary information within a reasonable period, or hinders an investigation.

### **Opportunity for industrial users and consumer organisation to give information in investigation**

**62.** The Investigating Unit shall, in anti-dumping and countervailing investigations, give an opportunity to industrial users of a product under investigation and representative consumer organisations in cases where the product is commonly sold at the retail level, to provide information which is relevant to the investigation.

### **Notification of interested parties of all essential facts**

**63.(1)** Where the Committee instructs the Investigating Unit to initiate a final investigation, the Investigating Unit shall notify all interested parties of all the essential facts under investigation.

(2) All interested parties may during a final investigation submit in writing any comments on the essential facts within the prescribed time.

(3) An interested party may request an extension of time to submit its comments on the essential facts and shall give reasons for the request for extension of time.

(4) The Investigating Unit may grant or refuse to grant an extension of time to interested parties for the submission of information on good cause shown.

### **Finalisation of Investigation**

**64.(1)** The Investigating Unit shall, upon the completion of the final investigation, prepare a final report and submit it to the Committee.

(2) The Committee shall in making its final determination consider the final report of the Investigating Unit.

(3) The Committee shall in addition to the final report of the Investigating Unit, invite all interested parties to make a submission on a specified date and shall afford all interested parties or their representatives the opportunity to be heard, by written or oral submission.

(4) The Committee shall, on the date specified in the invitation, hear the submissions of the interested parties and witnesses brought by the interested parties.

(5) The Committee shall allow interested parties to question witnesses who give evidence before the Committee.

(6) The opportunity to be heard shall be subject to the confidentiality status of any information provided by the interested party.

(7) The Committee may decide that proceedings shall be held in private, that in the report the names of witness shall not be published, and that confidential information shall not be included in the report.

(8) The Committee shall write and make available its rules of proceedings before them for hearing submission and witnesses in the final determination.

(9) The Committee shall reduce all oral evidence to writing and the Chairperson shall sign the transcript of the evidence as proof of its correctness.

(10) The Committee shall make available the signed transcript to all interested parties.

(11) The Committee shall, after having considered the final report of the Investigating Unit and hearing the submissions of interested parties, make recommendations to the Minister.

(12) The Minister may accept or reject the recommendation of the Committee or may refer back the recommendation for reconsideration by the Committee.

(13) The Minister shall take a final decision whether to impose a definitive anti-dumping, countervailing or safeguard measure based on the Committee's recommendation under subsection (11).

### **Publication of preliminary and final determinations**

**65.(1)** The Investigating Unit shall publish by notice in the *Gazette* the summary of any preliminary and final determinations of the Committee and the final decision of the Minister.

(2) The Investigating Unit shall publish a separate report of all final determinations detailing the findings and conclusions reached on all relevant issues of fact and law considered in the investigation.

(3) All public notices and reports shall be forwarded to all interested parties.

### **Definitive measures**

**66.(1)** Definitive measures may be taken by the Minister in the following forms —

- (a) in anti-dumping and countervailing investigations, an anti-dumping or countervailing duty, as the case may be, or a price undertaking from a relevant interested party to increase the price to remove the dumping or subsidisation, as the case may be, or the negative impact of the dumping or subsidization on the domestic industry;
- (b) in safeguard investigations, a duty, a quantitative import restriction (including a quota) or a tariff quota.

(2) Where a final decision is made to impose a definitive measure, the Minister shall request the Commissioner of Customs to impose the measure,

indicating the form, level and duration thereof and, where applicable, any liberalisation thereof.

(3) The lesser duty rule may be considered in anti-dumping and countervailing investigations.

### **Duration of trade measures**

**67.(1)** Any trade remedy measure shall remain in force as long as and to the extent necessary to —

- (a) counteract dumping or subsidised imports; or
- (b) facilitate the adjustment of the domestic industry in safeguard cases.

(2) Notwithstanding subsection (1), any definitive anti-dumping or countervailing duty shall be terminated on a date not later than five years from its imposition or re-imposition.

(3) For purposes of subsection (2), the duration of a provisional anti-dumping or countervailing measure shall not be regarded as part of the duration of an anti-dumping or countervailing duty, regardless of whether the provisional measure was definitively collected or not.

## **PART IX REVIEWS**

### **Sunset reviews**

**68.(1)** The Committee may on its own initiative or upon a request made by or on behalf of the domestic industry on a date prior to the expiration of the period of five years after a definitive measure has been imposed conduct a sunset review.

(2) The Committee may recommend to the Minister to extend a definitive measure where the expiry of the duty would be likely to lead to continuation or recurrence of —

- (a) dumping or subsidisation; and
- (b) injury.

(3) The duty may remain in force pending the outcome of such a review.

### **Changed circumstances reviews**

**69.** The Committee shall review the need for the continued imposition of an anti-dumping or countervailing duty, where warranted, on its own initiative or, provided that a reasonable period has elapsed since the imposition of such definitive duty, upon request by any interested party which submits information substantiating the need for a changed circumstances review.

### **New shipper reviews**

**70.** The Committee shall promptly carry out a new shipper review to determine individual margins of dumping or subsidisation for any producers in the exporting country in question that did not export the product to Seychelles during the period of investigation, provided the producer can show that it is not related to any of the exporters or producers in the exporting country who are subject to the anti-dumping or countervailing duties on the product.

### **Anti-circumvention reviews**

**71.** The Committee shall investigate the absorption or circumvention of any anti-dumping, countervailing or safeguard measure, where warranted, on its own initiative or upon request by any interested party which submits information substantiating the need for an anti-absorption or anti-circumvention review.

### **Progressive liberalisation reviews**

**72.** Any safeguard measure imposed for a period exceeding one year, including the period of provisional application, shall be progressively liberalised at regular intervals during the period of application.

### **Mid-term reviews**

**73.** If the duration of a safeguard measure exceeds three years, the Committee shall review the situation not later than the mid-term of the measure to determine whether the industry is adjusting and, if appropriate, withdraw the safeguard measure or increase the pace of liberalisation.

### **Extension review**

**74.(1)** A safeguard measure shall not be imposed for an original period exceeding four years, which period shall include the duration of a provisional safeguard measure, unless the Committee determines, in an extension review finalised before that date on its initiative or upon a duly substantiated request made by or on behalf of the domestic industry, that the safeguard measure is still required to assist the domestic industry to adjust to international competition, and only if there is evidence of such adjustment taking place.

(2) Any safeguard measure applied subsequent to an extension review shall not be more restrictive than the safeguard measure in place before the review and such safeguard measure shall continue to be liberalised at regular intervals.

(3) A safeguard measure may be extended, once or in any number of extensions, before the original period for which it was imposed lapses, up to a maximum of ten years, including the period for which a provisional measure was applied, on condition that a prior review, finding that such a safeguard measure continues to be necessary, is concluded before each extension.

### **Amendment of decision**

**75.(1)** The Committee may amend or revoke a decision or recommendation concerning an application where —

- (a) the decision or recommendation was based on incorrect information and the applicant or supplier of the information —
  - (i) was responsible for the error in the information; and

- (ii) benefited or could have benefited, from the decision or recommendation;
- (b) the decision was obtained by deceit;
- (c) there has been a change in circumstances; or
- (d) a person has breached an obligation attached to the decision or recommendation.

### **Tribunal review**

**76.(1)** An interested party who participated in an investigation or review and is affected by a final decision of the Investigating Unit, Committee or Minister, may apply to the Tribunal for a review of that decision and shall serve a copy of the review application on the Investigating Unit and on the Committee.

- (2) A final decision referred to in subsection (1) shall include —
  - (a) the decision by the Committee, after determining that the evidence available is not satisfactory, to not initiate an investigation or review;
  - (b) the determination by the Investigating Unit and final decision by the Committee on whether information is confidential or not;
  - (c) the decision of the Committee to terminate an investigation or review without the application of any measures; and
  - (d) the final decision of the Minister to impose definitive measures.

(3) Any review under this Act shall be brought within no more than sixty days after publication of the final determination in the matter or, for determinations that are not published, within sixty days from the date the determination was made known to the party in question.

(4) The Investigating Unit shall provide the Tribunal with all the evidence and records served before the Investigating Unit, the Committee and the Minister, including both confidential and non-confidential information, within five working days from the date the review is lodged.

(5) In its assessment of the facts of the matter, the Tribunal shall determine —

- (a) whether the establishment of the facts was proper;
- (b) whether the evaluation of those facts was unbiased and objective; and
- (c) whether the correct procedures were followed.

(6) Where the Tribunal's findings satisfy the assessment criteria in subsection (5), the evaluation shall not be overturned, irrespective of the possibility that the Tribunal might have reached a different conclusion on the outcomes of the decision.

(7) The applicant before the Tribunal shall submit its written submissions within thirty days from the date the review was lodged.

(8) The Investigating Unit, the Committee, the Minister and other interested parties that had cooperated in the investigation shall submit their written submissions within thirty days from the date of the applicant's written submissions, and the applicant will have fourteen days from that date to reply.

(9) The Tribunal may grant an extension to the time periods in subsection (7) and (8) where good cause is shown, including where the Tribunal is in recess.

(10) The Tribunal may decide to hold a hearing, in which case all parties shall receive at least fourteen days' notice of the date and venue for such hearing.

(11) Parties may rely on third parties to represent them in the review proceedings before the Tribunal.



(12) The Tribunal shall provide its decision in writing within ninety days from the date the applicant's written submissions were received and, in special circumstances, and for good cause shown, within a maximum period of one hundred and fifty days.

(13) All parties shall pay their own costs before the Tribunal.

### **Appeal to Supreme Court**

77.(1) Subject to this section and the Rules of the Supreme Court, a participant in a hearing before the Tribunal, dissatisfied with an order or decision of the Tribunal, may appeal to the Supreme Court against the decision of the Tribunal.

(2) The Supreme Court may affirm, reverse, amend or alter the decision appealed from, or remit the matter to the Tribunal with the directions of the Supreme Court thereon, and may make any order as to costs.

(3) The Chief Justice may make rules prescribing matters of procedure on appeal not otherwise provided for in this Act.

## **PART X GENERAL**

### **Protection of action taken in good faith**

78. No suit or other legal proceedings shall lie against any member of the Committee or employee under the Investigating Unit in respect of any action taken or an act done or omitted to be done in good faith in the performance of any functions under this Act.

### **Regulations**

79.(1) The Minister may make regulations for the carrying into effect the provisions and the objectives of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations to provide for the proceedings before the Committee and the Investigating Unit.

(3) The regulations made under this Act may create offences and provide penalties of a fine not exceeding that of level 6 on the Standard Scale or to imprisonment not exceeding five years, or to both.

### **Divulging confidential information**

**80.** A person who unlawfully divulges confidential information contrary to section 50 commits an offence and shall be liable on conviction to a fine of not less than level 1 but not more than level 6 on the Standard Scale or to imprisonment for not less than one month but not more than twelve months, or to both.

### **Giving false, misleading or fraudulent information**

**81.** A person who during a preliminary investigation under section 48 and final investigation under section 64 provides false, misleading or fraudulent information to the Investigating Unit commits an offence, shall be liable on conviction to a fine not exceeding level 6 on the Standard Scale or to imprisonment for a period not exceeding six months, or to both.