



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Guidelines

SAFEGUARD INQUIRIES

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SAFEGUARD INQUIRY GUIDELINES

INTRODUCTION

As part of its mandate, the Canadian International Trade Tribunal (Tribunal) may conduct inquiries to determine if goods are being imported into Canada in such increased quantities and under such conditions as to be a principal cause of serious injury, or threat thereof, to the domestic producers of like or directly competitive goods. Such inquiries are referred to as “safeguard inquiries”. In the event of an affirmative determination by the Tribunal, the Government of Canada (Government) may apply measures on increasing imports to prevent or remedy the serious injury, or threat thereof, to domestic producers. Such measures are referred to as “safeguard measures”.

These guidelines set out the general approach of the Tribunal regarding the conduct of a safeguard inquiry and the recommendations concerning the most appropriate safeguard measures to be applied by the Government to prevent or remedy the serious injury, or threat thereof, to domestic producers.¹

LEGISLATIVE BACKGROUND

Canada, like many trading nations, has legislation that allows the application of safeguard measures to assist domestic producers that have suffered or are threatened by serious injury from increased levels of fairly traded imports. This legislation implements Canada’s rights and obligations under the WTO *Agreement on Safeguards* for global safeguard inquiries and measures. In a global safeguard inquiry, the Tribunal looks at the impact of imports of goods from **all** countries on domestic producers of like or directly competitive goods.

The Tribunal may conduct global safeguard inquiries, exclusion inquiries, mid-term reviews and extension inquiries pursuant to the *CITT Act*, the *CITT Regulations* and the *CITT Rules*. The Government may apply safeguard measures in the form of an import surtax pursuant to the *Customs Tariff* or in the form of a restriction (import quota or tariff-rate quota) pursuant to the *Export and Import Permits Act*.

The *CITT Act* also has provisions relating to safeguard inquiries under various bilateral free trade agreements to which Canada is a signatory. These inquiries are referred to as “bilateral safeguard inquiries”. In a bilateral safeguard inquiry, the Tribunal considers the effect of goods imported from **one** of the countries with which Canada has entered into a bilateral free trade agreement (for example, Chile, Colombia, Costa Rica, Iceland, Israel, Jordan, Mexico, Norway, Panama, Peru, Switzerland, Liechtenstein and the United States of America). In principle, the object is to determine whether, as a result of the tariff reductions provided for in the bilateral free trade agreement, goods are imported from the **country in question** in such increased quantities and under such conditions as to cause or threaten to cause serious injury to domestic producers of like or directly competitive goods. In a bilateral safeguard inquiry, safeguard measures, if applied, are limited to the temporary suspension of tariff reductions or restoration of the most-favoured-nation tariff rates. Measures may be applied for up to three years, followed, in some cases, by a one-year phasing-out period.

1. These guidelines do not supplant the provisions of the World Trade Organization (WTO) *Agreement on Safeguards*, the North American Free Trade Agreement (*NAFTA*), other free trade agreements, or those of any other relevant acts or regulations, such as the *Canadian International Trade Tribunal Act (CITT Act)*, the *Canadian International Trade Tribunal Regulations (CITT Regulations)* and the *Canadian International Trade Tribunal Rules (CITT Rules)*. These guidelines are not a binding statement of how the Tribunal’s discretion will be exercised in a particular situation. They are meant to provide guidance to stakeholders when dealing with safeguard inquiries before the Tribunal by providing a brief description of the basic procedures that the Tribunal would ordinarily follow. The Tribunal may vary these procedures if it considers it appropriate in the circumstances of a particular case.

CANADA'S SAFEGUARD REGIME

The Tribunal conducts a safeguard inquiry to determine if increased imports of goods into Canada are causing or are threatening to cause serious injury to domestic producers of like or directly competitive goods.

A safeguard inquiry can be distinguished from an injury inquiry conducted pursuant to section 42 of the *Special Import Measures Act (SIMA)* on the basis that it is not necessary for imports to have been dumped or subsidized for a safeguard inquiry to take place.

The Tribunal may initiate a global safeguard inquiry following a written complaint by a domestic producer. The Government may also order the Tribunal to conduct such an inquiry. If the Tribunal determines that increased fairly traded imports of goods are causing or are threatening to cause serious injury to domestic producers of like or directly competitive goods, the Government may apply safeguard measures to assist those domestic producers.

If the Tribunal determines, in a global safeguard inquiry, that increased imports of goods are causing or are threatening to cause serious injury, it must also determine if the goods being imported from a country with which Canada has entered into a bilateral free trade agreement are substantial and contribute to the serious injury. In principle, the Government must exclude imports from that country from any global safeguard measures that it applies. Furthermore, if certain conditions are met, imports from *NAFTA* countries must also be excluded from global safeguard measures.

The Tribunal also conducts mid-term reviews to determine if safeguard measures should remain in effect, be repealed or be amended. Following a request by a domestic producer, the Tribunal may also conduct extension inquiries to determine if safeguard measures due to expire are still necessary.

Appendix 1 provides a safeguard inquiry flowchart while Appendix 2 shows a safeguard measure flowchart.

Increased Imports

In a global safeguard inquiry, the Tribunal considers the effects of imports from **all** sources on domestic producers. The object is to determine whether goods are imported into Canada in such increased quantities and under such conditions as to be a principal cause of serious injury, or threat thereof, to domestic producers of like or directly competitive goods.

Serious Injury

In regard to a global safeguard inquiry, subsection 2(1) of the *CITT Act* provides that “serious injury” means “a significant overall impairment in the position of the domestic producers.” In considering the issue of serious injury, paragraphs 5(2) and (3) of the *CITT Regulations* instruct the Tribunal to consider whether there have been significant increases in imports or significant price undercutting, depression or suppression. Other important factors to be examined, pursuant to paragraph 5(4) of the *CITT Regulations*, include the impact of the imported goods on domestic producers with respect to their output, employment, sales, market share, profits and losses, productivity, return on investments, capacity utilization, cash flow, inventories, wages, growth or ability to raise capital or investments.

Principal Cause

Section 20 of the *CITT Act* provides that the importation of goods into Canada should be in such increased quantities and under such conditions as to be a principal cause of serious injury or threat thereof.

Section 19.01 of the *CITT Act* defines “principal cause” as “. . . an important cause that is no less important than any other cause of the serious injury or threat.”

SAFEGUARD INQUIRY PROCESS

The safeguard inquiry process starts when a complainant, i.e. any domestic producer of goods that are like or directly competitive with goods being imported into Canada, or any person or association acting on behalf of such domestic producer, files a written complaint with the Tribunal alleging that the imported goods are being imported in such increased quantities and under such conditions as to be a principal cause of serious injury, or threat thereof, to domestic producers of like or directly competitive goods.

Filing of a Written Complaint

A complaint of serious injury must be filed, in writing, with the Tribunal and must include the information prescribed by subsections 23(2) and (3) of the *CITT Act* as well as subrule 83(1) of the *CITT Rules*, as provided in Appendix 3. For example, the complainant must, in its written complaint, state in reasonable detail the facts that support its serious injury allegations, and provide supporting evidence and documentation. Furthermore, the Tribunal can require the complainant to provide additional information in its written complaint relating to any relationships between domestic producers and exporters or importers, as prescribed by subrule 83(2) of the *CITT Rules*.

The complainant should endeavour to base its written complaint exclusively on public information. However, it may file confidential information relevant to the issues with the Tribunal, if necessary. In the latter case, the complainant must provide a public summary or redacted version of that confidential information and comply with the requirements of subsection 46(1) of the *CITT Act*. Further information regarding the treatment of confidential information in proceedings before the Tribunal can be found in its *Confidentiality Guidelines* on its Web site at www.citt-tcce.gc.ca/en/Confidentiality_guidelines_e.

Decision on Whether a Written Complaint is Properly Documented

The day following the receipt of a written complaint of serious injury, the Tribunal acknowledges receipt of the complaint. The Tribunal reviews the complaint to ensure that it complies with the requirements set out in Appendix 3.

The Tribunal has 21 days to render its decision as to whether the written complaint of serious injury is properly documented. If the Tribunal determines that the complaint is properly documented, it notifies the complainant as well as other persons² and governments that may have an interest in the matter.

If the Tribunal determines that the written complaint of serious injury is not properly documented, it may ask the complainant to provide additional information within the 21-day time frame. After examining the additional information provided by the complainant, the Tribunal can either determine that the complaint is properly documented or terminate the safeguard inquiry process. If the Tribunal determines that the

2. Under subsection 2(1) of *SIMA*, a “person” includes a partnership and an association. Under section 35 of the federal *Interpretation Act*, a “person” includes a corporation.

complaint is not properly documented, the Tribunal notifies the complainant of its decision and provides it with reasons for its decision.

The Tribunal also publishes a notice of decision in the *Canada Gazette* and posts its decision and reasons on its Web site.

Decision on Whether to Initiate a Safeguard Inquiry

After the Tribunal considers a written complaint of serious injury properly documented, it must determine if the initiation of a safeguard inquiry is warranted on the basis of the information provided in the complaint. The Tribunal has to render its decision on Day 51, which is no later than 30 days after determining that the complaint is properly documented.

In order to initiate a safeguard inquiry, the Tribunal needs to be satisfied that the following three conditions prescribed by subsection 26(1) of the *CITT Act* are met:

- Reasonable indication of serious injury – the Tribunal must be satisfied that there is a reasonable indication that the goods are being imported in such increased quantities and under such conditions as to cause or threaten to cause serious injury to domestic producers of like or directly competitive goods.
- Standing – the complainant must account for a major proportion of the domestic production of like or directly competitive goods.
- No recent similar cases – the Tribunal cannot initiate a safeguard inquiry if it has completed or terminated a safeguard inquiry related to the same goods in the two years before the receipt of a written complaint.

If the Tribunal decides that the initiation of a safeguard inquiry is warranted, it issues a decision and reasons to the complainant as well as other interested persons and governments that were notified of the properly documented written complaint of serious injury. The Tribunal publishes a notice of decision in the *Canada Gazette* and posts its decision and reasons on its Web site. The Tribunal also sends to the Government a copy of the properly documented complaint and any information accompanying the complaint. This starts the investigation phase of the safeguard inquiry process.

If the Tribunal decides that the initiation of a safeguard inquiry is not warranted, it notifies the complainant as well as other interested persons and governments of its decision and provides them with reasons for decision. The Tribunal publishes a notice of decision in the *Canada Gazette* and posts its decision and reasons on its Web site. This terminates the safeguard inquiry process.

Furthermore, the Tribunal will not consider initiating a safeguard inquiry following a new complaint of serious injury respecting the same goods, unless the complainant can demonstrate that there has been a change in circumstances since the Tribunal rejected the first complaint. The Tribunal will neither consider initiating a safeguard inquiry if it is of the opinion that the injury caused to the domestic producers is caused by the dumping and/or subsidizing of imports. In such a case, the Tribunal suspends its proceedings and refers the matter to the Canada Border Services Agency (CBSA). The Tribunal can also make this decision during the conduct of a safeguard inquiry. However, if the CBSA does not act upon or terminates its investigation into dumping and/or subsidizing, the Tribunal may initiate or resume the safeguard inquiry, if requested by the complainant.

Notice of Safeguard Inquiry

The Tribunal initiates a safeguard inquiry after determining that such an inquiry is warranted or after the Government directly orders it to do so.³ If the Tribunal receives a safeguard inquiry referral order from the Government, it must issue a notice of commencement of safeguard inquiry and notify the complainant and other interested persons and governments. The Tribunal also publishes the notice of commencement of safeguard inquiry in the *Canada Gazette* and posts it on its Web site.

The notice of safeguard inquiry describes the product, including its tariff classification, and outlines the general rules for parties wishing to participate in the safeguard inquiry. It also gives information on the dates for parties to file their written submissions and information requested by the Tribunal, as well as the date and location of the oral hearing. Detailed information on the contents of the notice as prescribed by rule 85 of the *CITT Rules* is found in Appendix 4.

Schedule for the Conduct of a Safeguard Inquiry

The Tribunal has 180 days to conduct a standard safeguard inquiry. However, that statutory deadline can be extended to 270 days in complex cases where the scope of the safeguard inquiry is much larger than usual, e.g. there are several products or several industries producing several products, or when an oral hearing of several weeks is anticipated due to a large number of parties.

The Tribunal's statutory deadline is also extended to 270 days when the Government directs the Tribunal to examine other matters, including most appropriate safeguard measures to apply in the event of a decision of serious injury or threat thereof. The Government can direct the Tribunal to recommend safeguard measures, either during the conduct of a safeguard inquiry or after receipt of the Tribunal's report.

The following table provides an indicative schedule of the key events in the conduct of a safeguard inquiry. While the only statutory deadline is the submission of the Tribunal's report to the Government on Day 180 (for a standard case) or on Day 270 (for a complex case or when the Government directs the Tribunal to recommend the most appropriate safeguard measures), the Tribunal endeavours to adhere to the established schedule for all other key events in order to be able to submit its report to the Government as per the prescribed deadline. As long as the statutory deadline is met, other deadlines can be modified slightly and key events can be added to the schedule, if the circumstances warrant it.

Day	Key Event
0	Issuance of the Tribunal's decision to initiate a safeguard inquiry and schedule of events Posting of Tribunal questionnaires on its Web site
15	Notices of participation and representation, and declarations and undertakings of confidentiality
16	Distribution of the list of participants
30	Replies to Tribunal questionnaires
70	Distribution of Tribunal's official record, including its investigation report

3. The Government may also direct the Tribunal to conduct a safeguard inquiry regarding the provision by non-residents of services in Canada that may cause or threaten injury to, or that may retard, the provision of any services in Canada by residents of Canada.

Day	Key Event
85	Cases of parties that support a determination of serious injury or threat thereof
100	Cases of parties that oppose a determination of serious injury or threat thereof
110	Reply submissions of parties that support a determination of serious injury or threat thereof
120	Commencement of oral hearing
180	Submission of Tribunal's report to the Government (for a standard case)
270	Submission of Tribunal's report to the Government (for a complex case or when the report includes recommendations on most appropriate safeguard measures)

Notices of Participation and Representation, and Declarations and Undertakings of Confidentiality

Any person or government wishing to participate as a party in a safeguard inquiry must file a *Form I – Notice of Participation (Party)* with the Tribunal on or before the date set out in the schedule. Each counsel who intends to represent a party in a safeguard inquiry must file a *Form II – Notice of Representation (Counsel)*, and to obtain access to confidential information, must also file a *Form III – Declaration and Undertaking (Counsel and Consultant)* on or before the date set out in the schedule. These forms are found on the Tribunal's Web site at www.citt-tcce.gc.ca/en/forms. Shortly after the deadline for the filing of notices of participation, the Tribunal distributes the list of participants to all parties who have filed the requisite notices.

A party is not required to be represented by counsel; however, only a counsel is able to obtain disclosure of any confidential information on the record. The Tribunal ensures that a public version of any confidential information is available to parties not represented by counsel. For *SIMA* purposes, "counsel", in relation to a party to the proceedings, includes any person, other than a director, servant or employee of a party, who acts in the proceedings on behalf of the party. Thus, counsel need not be a lawyer.

Questionnaires

At the start of a safeguard inquiry, the Tribunal posts on its Web site, at www.citt-tcce.gc.ca/en/questionnaires, questionnaires to be completed by the complainant, other domestic producers, importers, foreign producers and purchasers. In these questionnaires, the Tribunal requests public and confidential information that can cover up to the last five calendar years of activities. These questionnaires seek, among other things, information on the volume and value of fairly traded imports, domestic production and sales, as well as financial results of domestic producers.

The content of the questionnaires is subject to modifications on a case-by-case basis. Prior to posting the questionnaires on its Web site, the Tribunal may provide an opportunity to parties and counsel to comment on the content of the questionnaires.

Respondents have approximately one month to complete their questionnaires and must send their replies to the Tribunal no later than Day 30.

Tribunal's Investigation Report

The Tribunal prepares an investigation report (public and confidential) based on the information it has collected in the responses to the questionnaires and other relevant information on the official record. The report also sets out the information relating to the factors that the Tribunal must examine to arrive at its

decision, pursuant to the *CITT Act* and the *CITT Rules*. The report forms part of the record and is distributed to parties and counsel.

Distribution of Tribunal's Record

On or about Day 70, the Tribunal distributes the public and confidential information on the record to counsel who have filed a *Form III – Declaration and Undertaking (Counsel and Consultant)* and who have been provided access to the confidential record. The public record is distributed to parties who are not represented by counsel.

On the distribution date, the Tribunal's record consists of:

- the written complaint and any other information accompanying the complaint;
- replies to Tribunal questionnaires;
- investigation report;
- other factual information on domestic production, imports, and domestic and world markets collected from reliable sources; and
- other information collected from various sources that could improve the evidentiary basis of the safeguard inquiry.

Written Case Briefs or Submissions

From approximately Day 85 to Day 110, parties and counsel are given the opportunity to submit, in writing, case briefs or submissions, and witness statements in support of, or in opposition to, a determination of serious injury or threat thereof.

Although there are no rules or guidelines governing the form and content of written case briefs, submissions and witness statements, the first should be limited to argument and the other two, to evidence on the impact of fairly traded imports on the domestic producers. Written submissions typically contain documentary evidence in the form of a written summary of the case to be made at the oral hearing, statements of evidence by witnesses who will testify at the oral hearing and exhibits on which parties will rely in their presentation of the evidence.

Oral Hearing

On or about Day 120, following the distribution of the Tribunal's record, the receipt of written case briefs or submissions, and witness statements, an oral hearing normally starts. An oral hearing, held before a panel of three members, can consist of both public sessions and, when the information discussed is of a sensitive or confidential nature, in-camera (private) sessions. It is usually held in the Tribunal's premises in Ottawa, Ontario, and can last anywhere from a few days to a few weeks, depending on the complexity of the case and the number of participants.

At the hearing, the domestic producers normally provide evidence that goods being imported into Canada are in such increased quantities and under such conditions as to be, for them, a principal cause of serious injury or threat thereof. The domestic producers' evidence may cover such factors as loss of sales to imports, price undercutting, depression or suppression, as well as declines in market share, profitability, return on investments, cash flow, growth, ability to raise capital and employment. Importers or foreign producers, and sometimes users of the goods, typically challenge the domestic producers' case. They may submit evidence that the particular variety of goods that they are bringing into Canada is not contributing to any serious injury that may be suffered by domestic producers. After cross-examination and questions from

the Tribunal, each party has an opportunity to summarize its case and respond to the other parties' cases in final argument.

Submission of Tribunal's Report to the Government

On Day 180 of a standard case, or on Day 270 of a complex case, the Tribunal issues a report to the Government setting out its determination as to whether the goods subject to the safeguard inquiry are being imported into Canada in such increased quantities and under such conditions as to be a principal cause of serious injury, or threat thereof, to domestic producers of like or directly competitive goods.

When the Government directs the Tribunal to recommend the most appropriate safeguard measures in the event of an affirmative determination of serious injury or threat thereof, the Tribunal has until Day 270 to submit its report with recommendations to the Government.

The Tribunal distributes its report, with recommendations, if applicable, to the complainant as well as other interested persons and governments. The Tribunal also posts the report, with recommendations, if applicable, on its Web site. Notice of the submission of the report is published in the *Canada Gazette*. If the Government has requested the safeguard inquiry, the Tribunal submits the report, with recommendations, if applicable, to Parliament.

SAFEGUARD MEASURE PROCESS

Safeguard measures, which are applied by the Government after the Tribunal makes an affirmative determination of serious injury or threat thereof, are intended to assist domestic producers that have suffered, or are threatened by, serious injury from increased levels of fairly traded imports.

For the Government to apply import safeguard measures, there must be a determination of "unforeseen developments" in addition to a determination of serious injury or threat thereof caused by increased imports.

Recommendations of Safeguard Measures to the Government

The Tribunal may recommend to the Government safeguard measures in the form of an import surtax or a restriction, such as an import quota or a tariff-rate quota. While the Tribunal has no statutory power to recommend safeguard measures in a safeguard inquiry, it has a pivotal role both in the review of the measures and the issue of whether they should be extended once they are applied by the Government.

The Tribunal has 90 days to recommend to the Government the most appropriate safeguard measures to assist domestic producers. Appendix 2 provides a safeguard measure flowchart.

Schedule for Recommendations of Safeguard Measures

The following table provides an indicative schedule of the key events in the event that the Government directs the Tribunal to recommend the most appropriate safeguard measures following an affirmative determination of serious injury or threat thereof. This safeguard measure process can also be conducted concurrently with the safeguard inquiry process.

During the safeguard measure process, the Tribunal prepares, on the basis of information on the record of the safeguard inquiry, an investigation report on the most appropriate safeguard measures that can

be applied to remedy the serious injury, or threat thereof, to the domestic producers. The Tribunal receives submissions on the different proposed options and holds an oral hearing, if necessary, to hear the views of the complainant, interested parties and governments. The Tribunal takes into account all the information collected during this process when making its recommendations to the Government.

While the only statutory deadline is the submission of the Tribunal's recommendations to the Government regarding the most appropriate safeguard measures on Day 90, the Tribunal endeavours to adhere to the established schedule for all other key events in order to be able to submit its recommendations to the Government as per the prescribed deadline. As long as the statutory deadline is met, other deadlines can be modified slightly, if the circumstances warrant it.

Day	Key Event
0	Issuance of the Tribunal's investigation report on options for most appropriate safeguard measures
15	Notices of participation and representation, and declarations and undertakings of confidentiality (if not already done as part of the safeguard inquiry process)
16	Distribution of the list of participants (if not already done as part of the safeguard inquiry process)
25	Submissions
30	Commencement of oral hearing, if applicable
90	Submission of Tribunal's recommendations of most appropriate safeguard measures to the Government

Application of Safeguard Measures by the Government

The Government may apply safeguard measures on imported goods in the form of an import surtax pursuant to the *Customs Tariff* or in the form of a restriction (import quota or tariff-rate quota) pursuant to the *Export and Import Permits Act* to limit the level of imports in order to prevent or remedy the serious injury, or threat thereof, to domestic producers. An import surtax may be applied on the recommendation of the Minister of Finance, or an import quota or a tariff-rate quota may be applied on the basis of a report to the Minister of Foreign Affairs.

An import surtax is an exceptional customs duty applied to the FOB value of imports. An import quota is an absolute limit on the volume of goods that can be imported during a specified period of time. A tariff-rate quota is a combination of a quota and a surtax.

There is no statutory deadline for the application of safeguard measures.

Under the *WTO Agreement on Safeguards*, global safeguard measures may be applied for an initial period of up to four years and are to be progressively liberalized during their period of application. They can be extended, if the Tribunal determines that they are still necessary to remedy serious injury or threat thereof and that there is evidence that domestic producers are adjusting to the import competition. The maximum period of application of safeguard measures, including the period of initial application, is eight years. If an initial safeguard measure is to be applied for a period exceeding three years or is extended, the *WTO Agreement on Safeguards* provides for the maintenance of the level of trade concessions and other

obligations between the country applying the measures and countries whose exports are affected. In the absence of an agreement on trade compensation, the government of the country whose exports are affected may, subject to provisions of the *WTO Agreement on Safeguards*, suspend the application of substantially equivalent trade concessions or other obligations. Global safeguard measures applied to imports from countries with which Canada has entered into bilateral free trade agreements are subject to similar provisions, whatever their duration.

In critical circumstances where delay might result in damage that would be difficult to repair, provisional safeguard measures may, under the *WTO Agreement on Safeguards*, be applied before there has been a determination of serious injury or threat thereof. The provisional measures shall not exceed 200 days and must be in the form of a surtax on imports that is refunded if it is determined that increased imports are not causing and are not threatening to cause serious injury. This period counts as part of the initial period of application of any safeguard measure.

INQUIRIES ON EXCLUSIONS FROM GLOBAL SAFEGUARD MEASURES

The Government may apply safeguard measures on imports from a country with which Canada has entered into a bilateral free trade agreement or from a *NAFTA* country that was previously excluded from global safeguard measures, if the Tribunal determines, after a complaint by a domestic producer, that a surge in imports from this country is undermining the effectiveness of global safeguard measures.

The Tribunal must decide within 30 days of receipt of a complaint if it will conduct an inquiry. It must report to the Government within 60 days of initiating an inquiry. Notice of the report is given to the complainant, and other interested persons and governments, published in the *Canada Gazette* and posted on the Tribunal's Web site.

MID-TERM REVIEWS

If a safeguard measure is to remain in effect for a period of more than three years, the Tribunal must, under the *CITT Act*, conduct a mid-term review of the measure before its mid-point.

The Tribunal notifies interested parties and governments of a mid-term review five months before the mid-point of the period. The notice is published in the *Canada Gazette* and posted on the Tribunal's Web site. Interested parties are asked to make written submissions on why a measure should remain in effect, be repealed or be amended. On the basis of these submissions and other information, the Tribunal submits a report to the Government on developments since the measure was applied and advises on whether the measure should remain in effect, be repealed or be amended. Notice of the report is given to interested parties and governments, published in the *Canada Gazette* and posted on the Tribunal's Web site.

EXTENSION INQUIRIES

The Tribunal may conduct an extension inquiry to determine if a safeguard measure that is due to expire is still necessary. It issues a notice of expiry eight months before a global safeguard measure is scheduled to expire. The notice is provided to all interested parties and governments, published in the *Canada Gazette* and posted on the Tribunal's Web site.

Domestic producers may file a request for an extension inquiry by providing information specified by the Tribunal, including facts on the proportion of domestic production accounted for by domestic producers making the request. If the Tribunal determines that the request is properly documented, it notifies

the requester and other interested parties and governments. The Tribunal initiates an extension inquiry within 30 days if it is satisfied that the information provided by the requester and any other information discloses a reasonable indication that the measure is still necessary to prevent or remedy the serious injury, or threat thereof, to domestic producers of like or directly competitive goods and that the request is made on behalf of domestic producers accounting for a major proportion of domestic production.

Extension Inquiry Process

The extension inquiry is similar to the initial safeguard inquiry. The Tribunal issues a notice, informs interested parties, governments and the Minister of Finance, obtains information through questionnaires, calls for written submissions and holds an oral hearing. The Tribunal must submit its report to the Government no later than 45 days before the date of expiry of the measure.

As in an initial safeguard inquiry, the Government may ask the Tribunal to examine and report on any other matter relating to the request for an extension inquiry.

Notice of the Tribunal's report is given to interested parties and governments, published in the *Canada Gazette* and posted on the Tribunal's Web site. If the Tribunal determines that the measures remain necessary to prevent or remedy the serious injury or threat thereof and that there is evidence that the domestic producers are adjusting to import competition, the Government may extend the safeguard measures.

JUDICIAL REVIEW

Any person directly affected by the Tribunal's report in a safeguard inquiry may seek judicial review in the Federal Court of Canada.

DISPUTE RESOLUTION

Foreign governments affected by a safeguard inquiry and measures may seek consultation and dispute resolution from the WTO's Dispute Settlement Body for review.

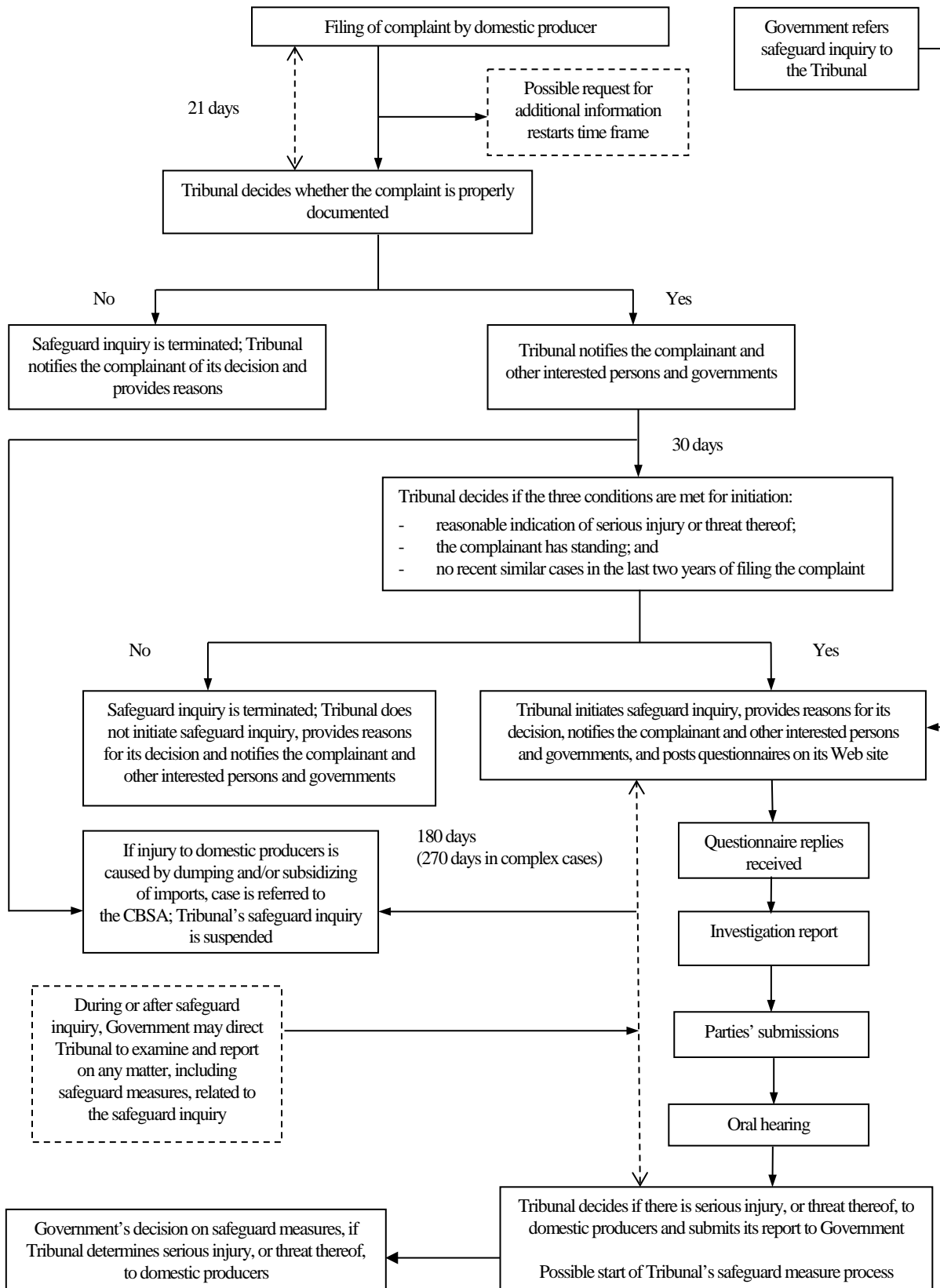
CONTACTING THE TRIBUNAL

Any questions regarding these guidelines or any related matter should be addressed to:

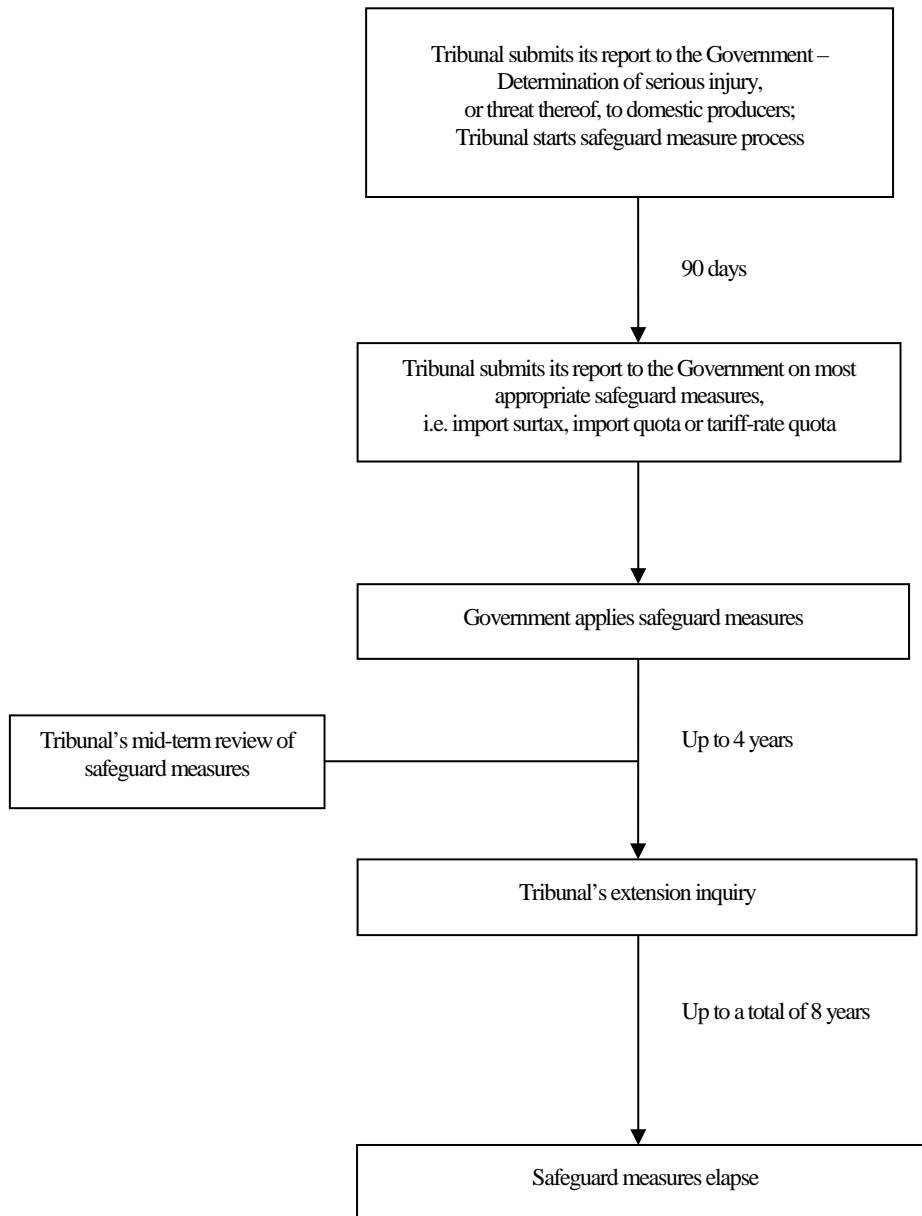
Registrar
Canadian International Trade Tribunal
15th Floor
333 Laurier Ave W
Ottawa Ontario K1A 0G7

Telephone: 613-993-3595
Fax: 613-990-2439
E-mail: citt-tcce@tribunal.gc.ca

APPENDIX 1 – SAFEGUARD INQUIRY FLOWCHART



APPENDIX 2 – SAFEGUARD MEASURE FLOWCHART



APPENDIX 3 – INFORMATION TO BE INCLUDED IN A WRITTEN COMPLAINT

Pursuant to subsection 23(2) of the *CITT Act*, a written complaint of serious injury filed with the Tribunal shall:

- (a) state in reasonable detail the facts on which the serious injury allegations are based;
- (b) state an estimate of the total percentage of domestic production of the like or directly competitive goods that is produced by the domestic producers by whom or on whose behalf the written complaint is filed; and
- (c) make such other representations as the complainant deems relevant to the matter.

Pursuant to subsection 23(3) of the *CITT Act*, a written complaint of serious injury filed with the Tribunal shall be accompanied by:

- (a) such information as is available to the complainant to prove the facts referred to in paragraph 23(2)(a) of the *CITT Act* and to substantiate the estimate referred to in paragraph of subsection 23(2)(b) of the *CITT Act*; and
- (b) such other information as may be required by the *CITT Rules*.

Pursuant to subrule 83(1) of the *CITT Rules*, in addition to providing the information set out in subsections 23(2) and (3) of the *CITT Act*, a written complaint of serious injury filed with the Tribunal shall be signed by the complainant or by the complainant's counsel, if any, and shall be accompanied by the following information:

- (a) the name, address for service, business and mobile telephone numbers, fax number and e-mail address of the complainant and of the complainant's counsel, as applicable;
 - (a.1) the name and description of the imported goods concerned, their tariff classification, their current tariff treatment, and the name and description of the like or directly competitive domestic goods concerned;
 - (a.2) the locations of the establishments in which the complainant produces the domestic goods;
 - (a.3) the percentage of domestic production of the like or directly competitive goods that the complainant accounts for, and the basis for claiming that the complainant is representative of an industry;
 - (a.4) the names and locations of all other domestic establishments in which the like or directly competitive goods are produced;
 - (a.5) data on total domestic production of the like or directly competitive goods for each of the five most recent full years;
- (b) a list of any documents that may be useful in explaining or supporting the complainant;
- (c) a list of any other interested parties;

**APPENDIX 4 (continued) –
INFORMATION TO BE INCLUDED IN A WRITTEN COMPLAINT**

- (d) the actual volume of the goods imported into Canada for each of the five most recent full years that form the basis of the written complaint and the effect of the imported goods on the prices of like or directly competitive goods in Canada, including
 - (i) whether there has been a significant increase in the importation into Canada of the goods, either absolutely or relative to the production in Canada of like or directly competitive goods;
 - (ii) whether the prices of the goods imported into Canada have significantly undercut the prices of like or directly competitive goods produced and sold in Canada, and
 - (iii) whether the effect of the importation into Canada of the goods has been
 - (A) to depress significantly the prices of like or directly competitive goods produced and sold in Canada, or
 - (B) to limit to a significant degree increases in the prices of like or directly competitive goods produced and sold in Canada; and
- (e) the impact of the imported goods on domestic producers of like or directly competitive goods in Canada and all relevant economic factors and indices that have a bearing on the industry that comprises or includes the like or directly competitive goods, including, without limiting the generality of the foregoing,
 - (i) actual and potential changes in the level of production, employment, sales, market share, profits and losses, productivity, return on investments, capacity utilization, cash flow, inventories, wages, growth or ability to raise capital or investments, and
 - (ii) factors affecting domestic prices.

**APPENDIX 5 –
INFORMATION CONTAINED IN THE TRIBUNAL’S NOTICE OF SAFEGUARD
INQUIRY**

Pursuant to rule 85 of the *CITT Rules*, the Tribunal’s notice of safeguard inquiry shall set out the following information:

- (a) the statutory authority for the safeguard inquiry;
 - (a.1) the name of the complainant;
- (b) the imported goods that are the subject of the safeguard inquiry, including their tariff classification, together with such details or explanation of the safeguard inquiry as the Tribunal directs;
- (c) the last date for written submissions to be filed with the Tribunal and the number of copies of each written submission to be filed;
- (d) instructions with respect to the filing of confidential information;
- (e) a statement as to whether the Tribunal has or has not directed that an oral hearing be held;
- (f) where the Tribunal has directed that an oral hearing be held, the following information, namely,
 - (i) the place and time fixed for the commencement of the oral hearing or, if the place and time have not been fixed, a statement that the notice of the place and time fixed for the oral hearing will be given to any person who files with the Registrar a written request for such a notice,
 - (ii) the last date for any person interested in the matter to file with the Tribunal a notice of participation, and
 - (iii) the last date for counsel for a person who files a notice of participation to file with the Tribunal a notice of representation and, if appropriate, a declaration and undertaking of confidentiality referred to in subrule 16(1) or (2) of the *CITT Rules*;
- (g) the address to which written submissions or correspondence may be sent or delivered and at which information in respect of the safeguard inquiry may be obtained and non-confidential documents filed in the course of the safeguard inquiry may be inspected, as well as the name, address and telephone number of the office to be contacted for more information; and
- (h) such other information as the Tribunal specifies.