

GENERAL AGREEMENT ON TARIFFS AND TRADE

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ANTI-DUMPING LEGISLATION OF JAPAN

The delegation of Japan has transmitted to the secretariat the following texts of Article 9 (Anti-Dumping Duty) of the Customs Tariff Law of Japan and the Cabinet Order No. 232 of July 1968 relating to Anti-Dumping Duty.

The delegation of Japan points out that Article 3 of the Customs Law stipulates to the effect that customs duty is imposed on imported products pursuant to the provisions of Customs Law, Customs Tariff Law and other laws concerning customs duty, provided that, in cases where specific provisions relating to customs duty are contained in international agreements, those provisions will apply.

CUSTOMS TARIFF LAW

(Provisional Translation)

Anti-dumping duty

Article 9 (as amended by Law No. 5, March 1968)

1. In cases where the imports of dumped goods (including the dumping of imported goods, referred to as the same in the following paragraph) cause or threaten to cause material injury to an established industry in Japan, or materially retard the establishment of an industry in Japan, there may be levied, if it is deemed necessary in order to protect the industry concerned, upon such goods, as prescribed by a Cabinet Order, specifying the goods, exporter or exporting country of such goods and period, a duty additional to customs duty chargeable at an applicable rate in the annexed Tariff Schedule, in an amount equal to or less than the difference between the normal value and the dumping price of such goods (hereinafter referred to as "anti-dumping duty" in this Article).
2. Any person interested in the industry affected by dumping within the purview of the preceding paragraph may, as prescribed by a Cabinet Order, present to the Government the evidence supporting the fact that the imports of dumped goods cause or threaten to cause material injury to the industry concerned or materially retard the establishment of the industry concerned (referred to as "facts of dumping" in the following paragraph) and may make a request to the Government to levy an anti-dumping duty on the goods concerned.
3. The Government shall, upon receipt of a request made under the preceding paragraph or when it is deemed particularly necessary, initiate an investigation as to whether there are facts of dumping. Where the investigation is so initiated, the Government may, if there is sufficient evidence to believe that there are facts of dumping in respect of the goods covered by the investigation, and if it is deemed

necessary in order to protect the industry in Japan, take any of the following measures, even before completion of the investigation, as prescribed by a Cabinet Order, specifying the goods, exporter or exporting country of the goods and period (not exceeding six months):

- (1) to levy an additional duty in an amount equal to the difference between the value deemed to be the normal value and the dumping price of the goods concerned;
- (2) to cause to be deposited, in order to secure the payment of anti-dumping duty under the provisions of the following paragraph, security in an amount or to a value equal to the amount of the additional duty referred to in the preceding sub-paragraph.

4. With respect to those goods, specified under the provisions of paragraph 1 in respect of which the import declaration has been filed (including those goods in respect of which the import permit has been granted), that fall under any of the following sub-paragraphs, an anti-dumping duty may be collected from the importer of such goods, as prescribed by a Cabinet Order. In this case, the anti-dumping duty chargeable on those goods upon which an additional duty has been levied under the provisions of sub-paragraph (1) of the preceding paragraph shall not exceed the amount of such an additional duty, and shall, if the additional duty has been paid under the said sub-paragraph, be deemed to have been collected.

- (1) Goods to which any of the measures as provided for in the preceding paragraph (referred to as "provisional measure" in the following sub-paragraph) has been applied and in respect of which it is recognized that the imports of such goods caused material injury to an industry in Japan (including those goods upon which an additional duty has been levied under sub-paragraph (1) of the preceding paragraph and the imports of which would, in the absence of the imposition of the additional duty, have caused material injury to an industry in Japan).
- (2) Except for the goods referred to in the preceding sub-paragraph, those goods the imports of which are recognized to have caused material injury to an industry in Japan by reason of the fact that massive dumped imports thereof in a short period occurred during the period commencing ninety days prior to the date on which a provisional measure was taken and ending on the day immediately preceding the first day of the period specified under paragraph 1, that fall under any of the following descriptions, and that in respect of which it is deemed necessary to collect an anti-dumping duty in order to preclude the recurrence of dumping:
 - (a) goods in respect of which there is a history of dumping that caused material injury to an industry in Japan;
 - (b) goods in respect of which the importer is deemed to have been aware that the imports of such goods would cause material injury to an industry in Japan.

- (3) Goods the delivery of which has, without import permit, been approved by the Director of Customs under paragraph 1 of Article 73 (delivery of goods prior to import permit) of the Customs Law, for the reason that the value for customs duty of the goods concerned could not be determined, for reasons unrelated to dumping, within the period commencing 120 days prior to the date on which a request was first made under paragraph 2 (or the day of the initiation of investigation, in cases where the investigation was initiated without any request as prescribed under paragraph 2) and ending the day immediately preceding the first day of the period specified under paragraph 1.

5. The additional duty paid or security deposited under the provisions of paragraph 3 shall, except in cases where a duty shall be collected under the provisions of the preceding paragraph, be reimbursed or released promptly, when the investigation referred to in paragraph 3 is completed. In cases where the amount of additional duty paid or security deposited exceeds the amount of duty chargeable under the provisions of paragraph 4, the amount in excess of the additional duty or security shall likewise be reimbursed or released.

6. Any necessary matters relating to the presentation of evidence relevant to the investigation referred to in paragraph 3, notice to the interested parties and the investigation referred to in the said paragraph shall be prescribed by a Cabinet Order.

CABINET ORDER RELATING TO ANTI-DUMPING DUTY

(Cabinet Order No. 232, July 1962)

(Provisional Translation)

Initiation of investigation

Article 1

1. Any person, who is to make a request to the Government to take such action as provided for in paragraph 2 of Article 9 of the Customs Tariff Law (hereinafter referred to as "the Law") under the provisions of the said paragraph, shall communicate the following information in writing to the Minister of Finance, together with evidence of the facts of dumping, etc.

- (1) The description, name of manufacturer, type, model and features of the goods.
- (2) The name of the exporter or exporting country of the goods.
- (3) The summary of the facts of dumping referred to in paragraph 2 of Article 9 of the Law.
- (4) A request, if any, for confidential treatment of the evidence submitted and the reason therefor.
- (5) Any other relevant matters.

2. The Minister of Finance shall, upon receipt of such information in writing as prescribed in the preceding paragraph, transmit a copy of the written information to any Minister having jurisdiction over the industry, as prescribed in paragraph 1 of Article 9 of the Law, and to the Minister for International Trade and Industry.

3. The Minister of Finance, the Minister having jurisdiction over the industry or the Minister for International Trade and Industry shall, if he deems necessary to initiate an investigation as prescribed in paragraph 3 of Article 9 of the Law (hereinafter referred to as "the investigation"), communicate to each other to that effect.

Consultation relating to the investigation

Article 2

The Minister of Finance, the Minister having jurisdiction over the industry and the Minister for International Trade and Industry shall always keep a close contact with each other in relation to the investigation and shall make a determination, after consultation among them, with respect to any important matters for conducting the investigation and for dealing with the results of the investigation.

Notice of initiation of the investigation

Article 3

The Minister of Finance shall, if the investigation is initiated, promptly notify in writing the exporter and importer of the goods covered by the investigation, and any person who made a request under the provisions of paragraph 1 of Article 1 if the investigation is initiated upon receipt of the request made under the said paragraph, of the following information, and shall make it known to the public in the Official Gazette.

- (1) The description, name of manufacturer, type, model and features of the goods.
- (2) The name of the exporter and exporting country of the goods.
- (3) The date when the investigation is initiated, and the date when such written information as prescribed in paragraph 1 of Article 1 was first communicated, if the investigation is initiated upon receipt of a request made under the provisions of the said paragraph.
- (4) The summary of the matters to be investigated.
- (5) Any other relevant matters.

Presentation of evidence

Article 4

1. Any person, who is to present evidence of the facts of dumping referred to in paragraph 2 of Article 9 of the law, shall present to the Minister of Finance such evidence, together with a written information as to the facts to be identified by the evidence, the relationship between those facts and the evidence, and a request, if any, for confidential treatment of the evidence and the reason therefor.

2. The Minister of Finance may request the exporter and importer of the goods covered by the investigation and any other person known to be interested in the investigation (hereinafter referred to as "interested parties") to present evidence necessary for the investigation.

Evidence to be seen

Article 5

1. The Minister of Finance shall, upon receipt of an application from interested parties, provide opportunities for them to see any evidence which is presented under the provisions of paragraph 1 of the preceding Article and any evidence that is used in the investigation, excluding those evidences which were requested by any person who presented them to be treated as confidential and those evidences which are by nature found inadequate to be seen by any person other than those who presented them.

2. Any person, who is to see any evidence under the provisions of the preceding paragraph, shall submit to the Minister of Finance an application in writing, stating the kinds of evidence and the reason to indicate that he is interested in the investigation.

Meeting with parties with adverse interests

Article 6

1. Any person, who is to meet the interested parties with adverse interest, shall submit to the Minister of Finance an application in writing, stating the name and address or residence of those parties with adverse interests as well as the facts to be identified by the meeting.

2. The Minister of Finance shall, when such a meeting is to be held, give an advance notice in writing to the parties to the meeting, stating the name and address or residence of the parties to the facts to be identified by, and the date and place of, such meeting.

Period of provisional measure

Article 7

1. The measure as prescribed in paragraph 3 of Article 9 of the Law (hereinafter referred to as "the provisional measure") shall not be imposed for a period longer than three months, unless the exporter or importer of the goods, with respect to which the provisional measure was taken, has made an application for the extension of that period.
2. Any person, who is to submit such an application for the extension of the period as prescribed in the proviso to the preceding paragraph, shall, during the period of the provisional measure, submit to the Minister of Finance an application in writing, stating the reason for the extension of the period to be so required.

Referral, etc., to the Customs Tariff Council

Article 8

1. The Minister of Finance shall, when it is deemed necessary to take the measure as prescribed in paragraph 1 of Article 9 of the Law or the provisional measure, promptly refer the matter to the Customs Tariff Council, except in cases where it is found necessary to take the provisional measures immediately in order to protect the domestic industry concerned in Japan.
2. In the cases as prescribed in the proviso to the preceding paragraph, the Minister of Finance shall, promptly after the provisional measure is taken, report to the Customs Tariff Council the details of the measure so taken.

Notice

Article 9

The Minister of Finance shall, when the measure as prescribed in paragraph 1 of Article 9 of the Law or the provisional measure is taken or when it is decided that the measure as prescribed in the said paragraph should not be taken, promptly give notice thereof to the importer of the goods covered by the investigation and any other person known to be directly interested in those measures and shall, when it is decided that the measure as prescribed in the said paragraph should not be taken, make it published in the Official Gazette.

Supplementary Provisions

This Cabinet Order shall be put into force as from the date of its promulgation.