

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Special Distribution

Committee on Subsidies
and Countervailing Measures

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INFORMATION ON INTERPRETATION AND APPLICATION OF THE AGREEMENT

Legislation of Korea

The following communication, dated 27 November 1980, has been received from the Permanent Mission of the Republic of Korea.

In accordance with Article 19:5 of the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade, I am pleased to forward to you an English translation of the relevant parts of Customs Act and Presidential Decree relating to countervailing duty.

REPUBLIC OF KOREA

I. CUSTOMS ACT

(Law No.3109, Dec. 1978)

(Provisional translation)

Article 13 (Countervailing Duty)

1. In cases where an importation of any goods benefiting from the bounty or subsidy granted directly or indirectly upon the production or exportation of such goods in any foreign country causes or threatens to cause material injury to an established domestic industry or materially retards the establishment of a domestic industry, there may be levied, if deemed necessary for protecting the domestic industry concerned, upon such goods, a duty in addition to the customs duty chargeable at the basic rate, of an amount equal to or less than the amount of such bounty or subsidy.

2. The provisions of paragraphs 2 through 4 of Article 10 shall apply mutatis mutandis to the case of paragraph 1.

(See Article 10 attached hereto).

Article 10 (Anti-dumping Duty)

1. In cases where an importation of dumped goods causes or threatens to cause material injury to an established industry in Korea, or materially retards the establishment of an industry in Korea, there may be levied, if it is deemed

necessary for protecting the industry concerned, upon such goods, as prescribed by a Presidential Decree 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 attached Tariff Schedules, of an amount equal to or less than the difference between the dutiable value and the dumping price of such goods.

2. The Government shall, upon receipt of a request made by any person interested in the industry affected by dumping or when it is deemed particularly necessary, initiate an investigation as to whether there are facts of dumping etc.

3. With respect to the goods covered by the investigation prescribed in paragraph 1, if there is sufficient evidence to believe that there are facts of dumping, and if it deemed necessary in order to protect the industry in Korea, the Government may, even before completion of the investigation, as prescribed by a Presidential Decree, specifying the goods, exporter or exporting country of the goods and period, either levy an additional duty of an amount equal to the difference between the dutiable value and the dumping price of the goods concerned, or cause security equivalent to the amount of the additional duty mentioned above to be deposited.

4. When the customs collector, as a result of the investigation prescribed in paragraph 2, confirms the facts of dumping, he shall collect, as prescribed by a Presidential Decree, the customs duty prescribed in paragraph 1 from the importer of the dumped goods on the date of importation of the said goods.

II. PRESIDENTIAL DECREE RELATING TO COUNTERVAILING DUTY

(Presidential Decree No.9237, Dec. 1978)

(Provisional translation)

Article 4-13 (Countervailing Duty)

1. When the heads of relevant governmental departments or persons interested request measures pursuant to paragraph 1 of Article 13 of the Act, a written request stating therein particulars enumerated in each of the following items shall be filed with the Minister of Finance, together with relevant supporting documents therefor;

- (1) Matters falling under any item of Article 4-3;
- (2) Forms of subsidy or bounty for manufacture or export of goods concerned provided for by the exporting country and their export price discriminating effect on such goods; and
- (3) Other references.

2. The provisions of Article 4-5 through Article 4-10 shall be applied mutatis mutandis to measures prescribed in paragraph 1.

(See Article 4-3 to Article 4-10 attached hereto).

Article 4-3 (Request for Investigation of Dumping)

When the head of a relevant governmental department or a person interested wishes to have dumping investigated, he shall file with the Minister of Finance a written request stating therein the particulars enumerated in each of the following items, together with relevant supporting documents:

- (1) Name, specification and other feature of the goods in question:
- (2) Nationality of exporter and export country of the goods in question:
- (3) Wholesale price in the export country and price in the case of exports to Korea and to the third country, on the goods in question:
- (4) Name, specification and factory price of the goods of the same kind or of similar nature manufactured in Korea:
- (5) Cost accounting statements of the goods described in item (4):
- (6) Impairment or estimated impairment to domestic manufacturers caused by the importation:
- (7) Reasons for handling the accompanied data secretly, if necessary:
- (8) Other necessary particulars.

Article 4-4 (Report of Dumping)

When the customs collector, the head of a foreign exchange bank, the head of other relevant organization or the head of interested groups deems the importation to be dumping, they shall notify the matter to the Minister of Finance.

Article 4-5 (Preliminary Examinations)

When required pursuant to the provisions of Article 4-3 or notified pursuant to Article 4-4, the Minister of Finance shall examine and judge the necessity of investigation before starting an investigation.

Article 4-6 (Public Notification of Investigation)

When the Minister of Finance initiates an investigation, the following items shall go into the official gazette. In case of extension of the investigation period, the same shall apply:

- (1) Name, specification and other feature of the goods in question:
- (2) Export country and exporter of the goods in question:
- (3) Investigation period:
- (4) Summary of the contents of investigation: and
- (5) Other references

Article 4-7 (Investigation Method)

1. In relation to an investigation pursuant to the provisions of 10-2 of the Act, the Minister of Finance may request relevant documents or other necessary assistance to relevant organizations or interested persons.

2. When so requested under paragraph 1, the relevant organizations or interested persons shall comply therewith in so far as without justifiable reason.

3. When deemed necessary for investigation pursuant to paragraph 1, the Minister of Finance may demand that relevant organizations and interested persons express their opinions and the latter may also request the Minister of Finance for an opportunity to express their opinions.

4. If deemed necessary for investigation pursuant to paragraph 1, the Minister of Finance may, in accordance with Article 9-8 of the Act, demand that one of the following organizations submit necessary data for determination of the dutiable value:

- (1) Korea traders association;
- (2) Korea chamber of commerce and industry
- (3) Korea trade agents association; and
- (4) Importers, or manufacturers interested or such bodies as being composed of them.

5. The Minister of Finance may delegate parts of a dumping investigation prescribed in this Decree to the Commissioner.

Article 4-8 (Special Instance of Collection)

With regard to goods falling under any of the following items, from among goods designated pursuant to paragraph 1 of Article 10 of the Act which have already been declared for import (including the case of import licensed goods) customs duty shall, according to the provisions of Article 10-4 of the Act, be collected from the importers of such goods:

- (1) Goods regulated by paragraph 3 of Article 10 of the Act, import of which has been judged to impair domestic industry (including goods regulated pursuant to paragraph 3 of Article 10 of the Act, import of which has been considered likely to have impaired domestic industry if not regulated thereunder);
- (2) From among goods that have been judged to impair domestic industry due to import of a large quantity thereof in a short period, within the period between the day ninety days prior to the day when paragraph 3 of Article 10 of the Act has been applied and the immediately preceding day of the first day of the period prescribed in paragraph 1 of Article 10 of the Act, goods on which it is deemed necessary to apply anti-dumping tax, among the goods which have impaired domestic industry by dumping before and importers of which are regarded as being aware of the fact that importation thereof should impair domestic industry.

Article 4-9 (Customs Deliberation Committee)

1. In order to deliberate the measures pursuant to Articles 10, 11, 13, 43-9, 43-10 of the Act in response to the consultation of the Minister of Finance, the Customs Deliberation Committee (hereafter in this article referred to as the "Committee") shall be established.
2. The committee shall be composed of not more than twenty members including the Chairman.
3. The Vice-Minister of Finance shall be the Chairman and the Minister of Finance shall appoint or entrust other members from among such persons as public officials of relevant governmental departments, officers of economic organizations, and other learned or experienced men in customs, trade, etc.
4. Reasonable allowances may, within the limit of the budget, be paid to members other than public officials present at the meeting of the committee.
5. Matters concerning the operation of the committee shall be determined by the Chairman through the resolution of the committee.

Article 4-10 (Public Notification of Measures Taken)

When the Minister of Finance takes measures pursuant to paragraphs 3 and 4 of Article 10 of the Act, or decides not to take measures pursuant to paragraph 4 of Article 10 of the Act in relation to goods on which the investigation pursuant to paragraph 2 of Article 10 of the Act has been initiated, he shall provide for the contents thereof in the official gazette.

