

**NOTIFICATION OF LAWS AND REGULATIONS UNDER
ARTICLE 12.6 OF THE AGREEMENT**

Questions Posed by the SEPARATE CUSTOMS TERRITORY OF TAIWAN,
PENGHU, KINMEN AND MATSU Regarding the Notification of TURKEY¹

The following communication, dated 5 August 2004, is being circulated at the request of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu.

Articles 2(d) and 5 of the Decree

Article 6 of the WTO Agreement on Safeguards provides that "[A] Member may take a provisional safeguard measure ... Such measures should take the form of *tariff increases* to be promptly refunded ..." (emphasis added). However, we note that Article 5 of the Decree on Safeguard Measures for Imports as notified by Turkey provides that "[p]rovisional safeguard measures can take the form of customs duties, additional financial charges, restrictions on quantity/value of imports, tariff quota or a combination of these forms".

Can the "additional financial charges, restrictions on quantity/value of imports, tariff quota or a combination of these forms" be considered tariff increases under Article 6 of the Safeguard Agreement? What kinds of financial charges can be applied in a provisional safeguard measure? How can a provisional measure that takes the form of restrictions on quantity/value or tariff quota be properly refunded as required by the Safeguard Agreement when the increased imports were not found to have caused or threaten to cause serious injury to the domestic industry?

We also note that Article 2(d) of the Decree stipulates that the definition of "tariff quota" is "[t]he quantity or value of imports, which is exempted from customs duties and/or other financial charges or subject to reduced customs duties and/or other financial charges for a specified period". What is the rationale for including other financial charges in the definition?

Could Turkey give examples of the financial charges referred to in Article 5 of the Decree? In Article 2(d) of the Decree? Is the scope of the financial charges in these two Articles the same?

Article 7 of the Decree

Could Turkey explain the rationale behind Article 7? Is Turkey envisioning potential conflicts between this Decree and the applications of the appropriate laws relating to the items referred to in (a) through (d)? If so, could Turkey exemplify a situation involving "(c) the obligations arising from the international agreements"?

¹ G/SG/N/1/TUR/3, dated 16 July 2004.

What is the scope of the international agreements in Article 7(c) of the Decree? If regional trade agreements are to be included, what is the practical effect of Article 7(c) on Turkey's safeguard measures? Will the application be consistent with the Article 2.2 requirements of applying the safeguard measures irrespective of the sources of subject imports?
