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Committee on Anti-Dumping Practices

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Committee on Subsidies and Countervailing Measures

NOTIFICATION OF LAWS AND REGULATIONS UNDER ARTICLES 18.5 AND 32.6 OF THE AGREEMENTS

JAPAN

The following communication, dated 7 June 1995, has been received from the Permanent Mission of Japan.

In regard to the Anti-Dumping Agreement 18.5 and the Subsidy Agreement 32.6, attached are the following laws and regulations:

Anti-Dumping

Customs Tariff Law
Cabinet Order Relating to Anti-Dumping Duty
(Cabinet Order No. 416, December 1994)

Subsidies and Countervailing
Measures

Customs Tariff Law
Cabinet Order Relating to Countervailing Duty
(Cabinet Order No. 416, December 1994)

CUSTOMS TARIFF LAW

(Provisional Translation)

(Law No. 54 of 1910)

Final Amendment (Law No. 118 of 1994)

(Purpose)

Article 1

This Law shall provide the rates of customs duty, the basis for customs valuation, the reduction of and exemption from customs duty and other matters relating to the customs systems.

(Definition)

Article 2

In this Law or in any Cabinet Order issued thereunder, the term "importation" shall be subject to the definition as provided for in Article 2 (Definition) of the Customs Law (Law No. 61 of 1954) and the term "exportation" shall mean the act as provided for in subparagraph (2) of paragraph 1 of the said Article and also the shipment of goods from a specific country (with regard to marine products caught or gathered in the open sea, a specific country includes vessels of the country which has caught or gathered them) to any other country.

(Basis for Customs Valuation and Rates of Customs Duty)

Article 3

Customs duty shall be imposed on imported goods on the basis of the value or quantity thereof taken as the basis for customs valuation, and the rates of customs duty shall be as described in the Annexed Tariff of this Law.

(Simplified Duty Rates on Personal Effects)

Article 3-2

1. For the purpose of application of the preceding Article, the rates of customs duty chargeable on personal effects which are brought into Japan by any person at the time of his entry into Japan or are imported separately by him as unaccompanied goods, as may be prescribed by a Cabinet Order, shall, notwithstanding the provisions of any other laws relating to customs duty, be as prescribed in the list of simplified duty rates, attached to the Annexed Tariff, which have been computed on the basis of the consolidated rates of customs duty and internal excise taxes (i.e. the internal excise taxes as provided for in subparagraph (1) of Article 2 (Definition) of the Law Concerning Collection, etc., of Internal Excise Taxes on Imported Goods (Law No. 37 of 1955)), chargeable on imported on imported goods. However, the foregoing provisions shall not apply to the case where the said person notifies the customhouse concerned to the effect that he does not wish to have any of the goods, which he has brought into Japan with him at the time of his entry, or imported into Japan as unaccompanied goods, charged in accordance with the list of the simplified duty rates.

2. The provisions of the preceding paragraph shall not apply to the following goods:
- (1) Goods designated as duty-free and goods exempted from customs duty, in accordance with the provisions of this Law or any other law relating to customs duty.
 - (2) Goods involved in any of the offenses as specified in Chapter 10 (Penal provisions) of the Customs Law.
 - (3) Goods in commercial quantities, goods of high unit value and other goods, as may be prescribed by a Cabinet Order, as being inappropriate to be subject to application of the rates of duty as enumerated in the list of simplified duty rates as provided for in the preceding paragraph, taking into account the effect on domestic industries, etc.

[This Article has been amended and the translation of the amended Article is yet to be done.]

(Principle for Determining the Customs Value)

Article 4

1. The value for customs purposes of imported goods (hereinafter referred to as "customs value") shall, except where the first sentence of paragraph 2 applies, be the price actually paid or payable by a buyer to or for the benefit of a seller for the said imported goods in import transaction relating to the said imported goods (excluding the amount of customs duty or any other charges reduced or refunded in the country of exportation at the time of their exportation), plus the cost of transport, etc., as enumerated below, to the extent that it is not included in the price actually paid or payable for the goods (hereinafter referred to as the "transaction value").

- (1) Cost of transport, cost of insurance and other expenses incurred for transport of the said imported goods to the port of importation (referred to as "cost of transport, etc., to the port of importation" in the next Article and in paragraph 2 of Article 4-3);
- (2) The following commissions or expenses, to the extent that they are incurred by the buyer in the import transaction relating to the said imported goods:
 - (a) Brokerage and commissions, except buying commissions;
 - (b) The cost of containers, provided that they shall be of the same kind and value as the containers usually used for the said imported goods;
 - (c) The cost of packing the said imported goods;
- (3) The cost of the following goods or services out of those supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production of the said imported goods and the import transaction:
 - (a) Materials, parts or similar items incorporated in the said imported goods;
 - (b) Tools, molds or similar items used in the production of the said imported goods;
 - (c) Materials consumed in the production of the said imported goods;

- (d) Engineering, plans and sketches and other services relating to the production of the said imported goods as may be prescribed by a Cabinet Order:
 - (4) The cost of the use of patent, design or trademark right and such similar rights as may be prescribed by a Cabinet Order (excluding the right to reproduce the imported goods in Japan), relating to the said imported goods, which the buyer must pay, directly or indirectly, as a condition of the import transaction of the said imported goods; and
 - (5) The proceeds of any subsequent disposition or use of the said imported goods by the buyer that accrue directly or indirectly to the seller.
2. Where there exists any of the circumstances described in the following subparagraphs in connection with the import transaction relating to the imported goods, the customs value of the said imported goods shall be determined in accordance with the provision of Article 4-2 through Article 4-4:
- (1) When there are restrictions as to the disposition or use of the said imported goods by the buyer (excluding restrictions as to the geographical area in which the imported goods may be sold by the buyer and such other restrictions as may be prescribed by a Cabinet Order);
 - (2) When the import transaction relating to the said imported goods is subject to a condition that the transaction value of the said imported goods is determined on the basis of the quantity or price of goods other than the said imported goods, transacted between the seller and the buyer of the said imported goods or to any other condition which makes it difficult to determine the customs value of the said imported goods;
 - (3) When the value of the proceeds of any subsequent disposition or use of the said imported goods by the buyer that accrue directly or indirectly to the seller is unknown;
 - (4) When there exists a specific relationship between a buyer and a seller (i.e. when there are mutually appointed officers or directors in the business conducted by the buyer and the seller or when there is such relationship between the buyer and seller as may be prescribed by a Cabinet Order; the same to apply hereinafter in this subparagraph and in paragraph 1 of Article 4-3) and such specific relationship is considered to have influenced the transaction value of the said imported goods.

However, the first sentence of this paragraph shall not apply to cases which come under subparagraph (4) above where the importer of the said imported goods demonstrates, in accordance with the provisions of a Cabinet Order, that the transaction value of the said imported goods is equivalent or nearly approximate to the customs value of identical or similar goods (those exported to Japan on or about the same date as the said imported goods and produced in the country of production of the said imported goods; the same to apply hereinafter in this paragraph) to the said imported goods, calculated in accordance with the provisions of the preceding paragraph or Article 4-3. The above customs value of the identical or similar goods shall be the price after appropriate adjustment has been made, in accordance with the provisions of a Cabinet Order, as to any price difference between the said imported goods and the identical or similar goods arising from differences in transaction stages, transaction quantity or cost of transport, etc., as enumerated in any of the subparagraphs of the said paragraph, and in such other costs and charges as may be prescribed by a Cabinet Order. With regard to the customs value calculated under the provisions of the said paragraph, there shall be used the customs value of the goods identical or similar to the said imported goods in an import transaction between a buyer and a seller who have no specific relationship as described in subparagraph (4).

(Determination of Customs Value on the Basis of Transaction Value of Identical or Similar Goods)

Article 4-2

1. When the customs value of the imported goods cannot be calculated under the provisions of paragraph 1 of the preceding Article or when the first sentence of paragraph 2 of the said Article applies and if there is available the transaction value (i.e. the customs value which has already been accepted under the provisions of paragraph 1 of the preceding Article; the same to apply hereinafter in this Article) of goods identical or similar to the said imported goods (those exported to Japan on or about the same date as the said imported goods and produced in the country of production of the said imported goods; hereinafter in this Article referred to as "identical or similar goods"), the customs value of the said imported goods shall be the transaction value of the identical or similar goods (if the transaction values of both identical and similar goods are available, the customs value of the said imported goods shall be the transaction value of the former). In applying the provisions of this Article, the transaction value of the identical or similar goods shall be the transaction value of the identical or similar goods in import transaction at the same transaction stage and substantially in the same quantity as in the case of the said imported goods (hereinafter in this Article referred to as "identical or similar goods at the same transaction stage and in the same quantity"). Where there is a significant difference in cost of transport, etc. to the port of importation between the said imported goods and the identical or similar goods in question at the same transaction stage and in the same quantity arising from differences in distances and modes of transport, the transaction value of the identical or similar goods in question shall be the transaction value after necessary adjustment is made, as may be prescribed by a Cabinet Order as to any price difference attributable to such significant differences.

2. Where there is no transaction value of the identical or similar goods at the same transaction stage and in the same quantity as provided for in the preceding paragraph, the transaction value of the identical or similar goods as provided for in the said paragraph shall be the transaction value of identical or similar goods after necessary adjustment is made, as may be prescribed by a Cabinet Order, as to any price difference between the said imported goods and the identical or similar goods in question attributable to differences in transaction stages or transaction quantity and differences in cost of transport, etc. to the port of importation.

(Determination of Customs Value on the Basis of Domestic Selling Price or Cost of Production)

Article 4-3

1. When the customs value of the imported goods cannot be calculated under the provisions of the preceding two Articles and if there is available a domestic selling price of the said imported goods (including the domestic selling price of the said imported goods received from the customs with the approval of the Director-General of Customs under the provisions of paragraph 1 of Article 73 (Receipt of goods prior to import permit) of the Customs Law; the same to apply hereinafter in this paragraph) or a domestic selling price of goods identical or similar to the said imported goods (produced in the country of production of the said imported goods; the same to apply hereinafter in this paragraph), the customs value of the said imported goods shall be the price as described in any of the following subparagraphs in accordance with the classification of the domestic selling prices enumerated in the following subparagraphs. (However, subparagraph (2) shall apply only when subparagraph (1) cannot be applied and that the importer of the said imported goods requests application of the provisions of subparagraph (2)).

- (1) The domestic selling price of the said imported goods or of identical or similar goods, sold domestically to a buyer who has no specific relationship with a seller of such goods in the same nature and condition as those at the time of import declaration (or at the time as described in any of the subparagraphs of Article 4 (Exceptional date of determination of object for duty assessment) of the Customs Law, in the case of the goods as enumerated in any of those subparagraphs; hereinafter in this subparagraph and in the next subparagraph referred to as "the date of determination of object for duty assessment") on or about the date of determination of object for duty assessment with regard to the said imported goods. Price calculated after deducting the following commissions, etc. from the said domestic selling price.
 - (a) The usual commissions or profits, and general expenses (excluding the expenses as enumerated in (b) below) in connection with the domestic sale of imported goods of the same class or kind (i.e. goods which fall within a group or range of goods produced by the same industry or industry sector and which belong to the same class or kind as the imported goods; the same to apply in the next paragraph) as the said imported goods;
 - (b) The usual costs of transport and insurance and other associated costs incurred for the transport of the imported goods or of the identical or similar goods sold in the domestic market from the time of their arrival at the port of importation to that of the domestic sale;
 - (c) The customs duties and other charges paid in Japan on the imported goods or the identical or similar goods sold in the domestic market.
- (2) The domestic selling price of the said imported goods, sold domestically to a buyer who has no specific relationship with a seller of such goods, after further processing after the date of determination of object for duty assessment. Price calculated after deducting from the said domestic selling price the value added by such processing and the amount of commissions, etc. as enumerated in (a), (b) and (c) of the preceding subparagraph.

2. When the customs value of the said imported goods cannot be calculated under the provisions of the preceding paragraph and if the production cost of the said imported goods can be confirmed, the customs value of the said imported goods shall be the price of the cost of production of the said imported goods, usual profit and general expenses in connection with sales for export to Japan of imported goods of the same class or kind produced in the country of production of the said imported goods, and cost of transport, etc. of the said imported goods to the port of importation.

3. When the cost of production of the said imported goods can be confirmed and if the importer of the said imported goods so requests, the customs value of the said imported goods shall be calculated under the provisions of the preceding paragraph, prior to the application of paragraph 1 above.

(Determination of Customs Value of Special Imported Goods)

Article 4-4

When the customs value of the said imported goods cannot be calculated under the provisions of the preceding three Articles, the customs value of the said imported goods shall be the value calculated

under the provisions of a Cabinet Order as corresponding to the customs value calculated under the provisions of these Articles.

(Determination of Customs Value of Imported Goods Deteriorated or Damaged)

Article 4-5

When the customs value is to be calculated under the provisions of Article 4 to 4-4 and if it is found that the said imported goods have deteriorated or have been damaged, in the light of the terms and conditions of the import transaction, by the time of import declaration (or by the time as described in subparagraphs (2) to (8) of Article 4 (Exceptional date of determination of object for duty assessment) of the Customs Law, in the case of the goods as enumerated in any of those subparagraphs; hereinafter in the proviso to paragraph 1 of Article 10 referred to as "the time of import declaration, etc."), the customs value of the said imported goods shall be the value calculated, after deducting an amount equivalent to the depreciation caused by such deterioration or damage from the customs value calculated as if such deterioration or damage had not occurred.

(Special Rule for Determination of Customs Value of Aircargo, etc.)

Article 4-6

1. In calculating the customs value under the provisions of Article 4 to 4-4, if the said imported goods are those transported by air, the cost of transport and cost of insurance incurred for transport to the port of importation of free samples (provided the customs value of the samples does not exceed such an amount as may be prescribed by a Cabinet Order as a small value, if the customs value is calculated on the basis of airfreight and insurance) or of goods the importation of which is deemed to be urgently necessary for disaster relief, the protection of public hygiene or any other similar purposes and of such other similar goods as may be prescribed by a Cabinet Order shall be calculated on the basis of cost of transport and cost of insurance for the usual mode of transport other than by air.

2. In calculating the customs value under the provisions of Articles 4 to 4-4, if the said imported goods are those brought into Japan as accompanied luggage by a person entering Japan or any other goods the import transaction of which is considered to be at the stage of retail transaction, and if they are deemed to be for the personal use of the importer of the said imported goods, the customs value of the said imported goods shall be the value at which they would have been imported at the stage of usual wholesale transaction. The first sentence of this paragraph shall apply *mutatis mutandis* to the case where the said imported goods are a gift to a person who is a resident in Japan and are deemed to be for the personal use of the recipient of the gift.

(Foreign Exchange Rate Used for Conversion of Currency)

Article 4-7

1. In calculating the customs value under the provisions of Articles 4 to 4-6, the conversion into Japanese currency of a value expressed in foreign currency shall be made on the basis of the foreign exchange rate on the date of import declaration of the said imported goods (or on the relevant date as prescribed in subparagraph (1) of Article 5 (Exceptions to applicable laws and regulations) of the Customs Law, if the customs value is to be calculated for the goods as enumerated in the said subparagraph).

2. The foreign exchange rate as prescribed in paragraph 1 above shall be established by a Ministry of Finance Ordinance.

(Mandate to Cabinet Order)

Article 4-8

Matters other than those prescribed in Article 4 to 4-7 which are necessary for the calculation of the customs value of the imported goods shall be prescribed by a Cabinet Order.

(Beneficial Duty)

Article 5

With regard to any imported products, which are the products of any country (including any territory forming part of such country. This shall apply to Article 5, paragraphs 1 and 2 of the following Article and paragraph 4 of Article 9) and are not entitled to the benefit as provided for in special provisions of any treaty relating to customs duty, a benefit relating to customs duty, not exceeding the benefit as provided for in such special provisions, may be extended to such products, as may be prescribed by a Cabinet Order, specifying the country and products.

(Retaliatory Duty, etc.)

Article 6

1. In the case where it is considered necessary to protect benefit accrued to Japan directly or indirectly under the Marrakesh Agreement Establishing the World Trade Organization (hereinafter in this Article, the following Article and Article 9 referred to as "the WTO Agreement") or attain the objective of the WTO Agreement, any imported product which is exported from or passing through any country referred in the following paragraph may be imposed duty within the scope of approval prescribed in the following subparagraph, prescribed by a Cabinet Order, in addition to customs duty chargeable at an applicable rate in the Annexed Tariff, in an amount equal to or less than the customs value of the said imported product, specifying the country and product. (1) Country of the member of the World Trade Organization, where there are circumstances to be considered to nullify or impair the benefit accruing to Japan directly or indirectly under the WTO Agreement or to impede any objective of the WTO Agreement. Approval by the Dispute Settlement Body to suspend the application to such country of concessions or other obligations prescribed under the provision of Article 2 of the Understanding on Rules and Procedures Governing the Settlement of Disputes. (2) Country of the member of the World Trade Organization, who has subsidy programme prescribed under paragraph 2 of Article 8 of the Agreement on Subsidies and Countervailing Measures in Annex 1A to the WTO Agreement (hereinafter in this Article and following Article referred to as "the Subsidies and Countervailing Measures Agreement") cause serious adverse effects to the domestic industry; Approval by the Committee on Subsidies and Countervailing measures prescribed in Article 24 of the Subsidies and Countervailing Measures Agreement, regarding countermeasures against the said country in accordance with the provisions of Article 9 of the Subsidies and Countervailing Measures Agreement.

2. With regard to any imported product which are exported from or passing through any foreign country, which treats any vessel or article of Japan or any products exported from or passing through Japan less favourable than any vessel or article of any other country or any products exported from or passing through such another country, there may be imposed upon such imported products a duty, in addition to customs duty chargeable at an applicable rate in the Annexed Tariff, in an amount equal

to or less than the customs value of the said imported products, as may be prescribed by a Cabinet Order, specifying the country and products. However, it is not applicable for the case where it shall be entrusted to procedures under the Dispute Settlement Body in accordance with paragraph 1 of the preceding Article.

3. In addition to matters as provided for in the preceding two paragraphs, any necessary matters relating to the application of these provisions shall be prescribed by a Cabinet Order.

(Countervailing Duty)

Article 7

1. Where there is a fact that the importation of product to which subsidies are granted, directly or indirectly, to production or export in any foreign country causes or threatens to cause material injury to domestic industry (hereinafter in this Article interpreted as referring to an industry which produces like products of such imported product to which the said subsidies are granted) or materially retards the establishment of domestic industry (hereinafter in this Article referred to as "the fact of material injury, etc. to domestic industry"), if it is found necessary to protect such domestic industry, as may be prescribed by a Cabinet Order, specifying the product, exporters or producers (hereinafter in this Article and the next Article referred to as "suppliers") of such product, or exporting country or the country of origin (including any territory forming part of such country, hereinafter in this Article and the following Article referred to as "supplying country") and the period of time (not exceeding five years), a duty may be imposed in addition to customs duty chargeable at an applicable rate in the Annexed Tariff, in an amount equal to or less than the amount of the subsidies (hereinafter in this Article referred to as "countervailing duty") to the product which is imported within the specified period regarding the specified supplier or supplying country (hereinafter in this Article referred to as "specified product") and which is imported during the specific period. However, it is not the case when the measure under paragraph 1 of the preceding Article (limited to measures under subparagraph (1)) is taken on the ground of material injury, etc. to any industry in Japan by importation of the product to which subsidies are granted or when the measure under the provision of the said subparagraph which is approved by the Dispute Settlement Body is taken.

2. In this Article, "subsidies" means subsidies as provided for in Article 1 of the Agreement on Subsidies and Countervailing Measures except subsidies which are not subject to the countervailing duty in accordance with the provisions of Article 13 of the Agreement on Agriculture and the provisions of 8.1 and 8.2 of Article 8 of the Agreement on Subsidies and Countervailing Measures Agreement.

3. In addition to the provisions of paragraph 1, in the cases where specified products to which were subsidized granted, directly or indirectly, to production or export in any foreign country, in the case of the product as enumerated in subparagraph (3), to which subsidies were granted, directly or indirectly, to export in contradiction to the provisions of the Agreement, to which a measure as provided for in paragraph 10 (hereinafter in this paragraph referred to as "provisional measure") was applied, and have been imported within the period as enumerated in any of the following subparagraphs in accordance with the classification of the product, the Government may impose, as may be prescribed by a Cabinet Order, countervailing duty in addition to customs duty chargeable at an applicable rate in the Annexed Tariff, upon such product. In this case, the amount of countervailing duty which may be imposed upon such product imported during the period for which the provisional measure has been applied, shall not exceed the amount of security which was ordered to be deposited in accordance with the provisions of paragraph 10.

- (1) A product in respect of which it is found that the importation thereof has caused material injury to domestic industry (including those products in respect of which it is found that the importation thereof would have caused material injury to domestic industry unless the provisional measure was taken, hereinafter in the following subparagraph referred to as the same and excluding the product falling within subparagraphs (2) and (3)). The period for which the provisional measure has been taken;
 - (2) A product upon which a provisional measure has been taken by reason of violation of undertakings accepted in accordance with paragraph 9 (including the case where the provision of the said paragraph shall apply *mutatis mutandis* in paragraphs 21 and 25, and where paragraph 21 shall apply *mutatis mutandis* in paragraph 28. This shall apply in paragraphs 10 and 28) and in respect of which it is to and that the importation thereof has caused material injury to domestic industry. The period commencing on the date which is 90 days prior to the date of application of the provisional measure or the date of violation of undertakings offered, whichever is later, and ending on the date immediately preceding the date of the specification was made in accordance with the provisions of paragraph 1;
 - (3) A product in respect of which it is found that the massive imports thereof in a short period have caused injury to domestic industry which it would be difficult to repair and that it is necessary to impose a countervailing duty in order to preclude such injury from recurring. The period commencing on the date which is 90 days prior to the date of application of the provisional measure and ending on the date immediately preceding the day on which specification was made in accordance with the provisions of paragraph 1.
4. Countervailing duties under the preceding paragraph shall be paid by the importer of the product on which the countervailing duties are to be imposed.
5. Any person who has an interest in domestic industry under paragraph 1 may, as may be prescribed by a Cabinet Order, request the Government to impose countervailing duties on the product submitting to the Government sufficient evidence concerning the fact of importation of subsidized product and the fact of material injury, etc. to domestic industry, caused by such importation.
6. The Government shall, upon a request made under the provisions of the preceding paragraph or when there is sufficient evidence concerning the fact of importation of the subsidized product and the fact of material injury, etc. to domestic industry, caused by such importation, initiate, if it is found necessary, an investigation as to whether those facts exist.
7. The investigation under the preceding paragraph shall be concluded within one year after the date of its initiation. However, the period may be extended at most six months if deemed necessary for special reasons.
8. In the case where an investigation has been initiated under paragraph 6, the authorities of the supplying country or the exporter of the product covered by the investigation may offer to the Government such undertakings as described in any of the following subparagraphs in accordance with the classification enumerated in the following subparagraphs (in the case of an undertaking to be offered in accordance with subparagraph (2), it must be accompanied by the agreement of the authorities of the exporting country of the product concerned).

- (1) Authorities of the supplying country of the product covered by the said investigation. Undertakings to eliminate or limit the subsidies with regard to the product concerned or to take measures which are deemed appropriate to eliminate the effect of the subsidies on the domestic industry;
- (2) Exporter of the product covered by the said investigation. Undertakings to revise prices of the product so that it may be deemed that the injurious effect of the subsidies with regard to the product concerned on the domestic industry is eliminated.

9. Where undertakings as provided for in any of the subparagraphs of the preceding paragraph are offered and it is possible to presume the facts of importation of the subsidized product and of material injury to domestic industry caused by the said importation, the Government may accept them (valid period should be limited within five years). In cases where the undertakings offered are so accepted, the Government may terminate the investigation under paragraph 5, except where the authorities of the exporting country of the product covered by such undertakings wish to complete the investigation under the provision of paragraph 6.

10. The Government may, no sooner than 60 days from the date of the initiation of the investigation, if, on the basis of sufficient evidence (or best information available in the case of violation of undertaking accepted under the provision of the preceding paragraph), it can be presumed that there are the fact of the importation of the subsidized product and the fact of the material injury, etc. to the domestic industry caused by such importation and if it is found necessary to protect such domestic industry, as may be prescribed in Cabinet Order, given an order to the person who is to import the product, to deposit a security deemed to be equivalent to the amount of subsidies to ensure the collection of countervailing duties to be imposed in accordance with the provision of paragraph 3, even before the completion of the investigation, specifying the product, supplier or supplying country of such product and period (not exceeding 4 months), impose a duty, with regard to the specified supplier or supplying country imported during the specified period.

11. The Government shall, if it accepts the undertakings in accordance with the provision of paragraph 9 with regard to the product for which the measure under the provision of the preceding paragraph was taken, withdraw the measure, as may be prescribed by a Cabinet Order.

12. When an investigation under paragraph 6 has been completed, the Government shall promptly release the security deposited in accordance with the provisions of paragraph 10, except where a countervailing duty shall be imposed in accordance with the provisions of paragraph 3. The amount of the security exceeding the amount of the countervailing duty to be imposed under the provisions of paragraph 3 shall likewise be released.

13. Where a countervailing duty has been imposed specifying the supplying country in accordance with paragraph 1, other than the supplier of the specified product who are not subject to the investigation under paragraphs 6 and 19 (hereinafter in this Article referred to as "supplier not subject to an investigation") may, as may be prescribed in Cabinet Order, submit to the Government sufficient evidence with regard to the fact that the amount of the countervailing duty imposed under the provision of paragraph 1 on the product of such new supplier is different from the amount of the actual amount of subsidy of such product, and request the Government to modify or abolish the countervailing duty imposed upon the product regarding the new supplier.

14. The Government shall, upon a request made under the provision of the preceding paragraph, or when there is sufficient evidence with regard to the fact that the amount of the countervailing duty

imposed under the provision of paragraph 1 on the product regarding the new supplier is different from the actual amount of the subsidies with regard to the product and it is found to be necessary, to initiate an investigation as to whether such facts exist.

15. The provision of paragraphs 7, 8 (excluding subparagraph (1)) and 9 shall apply *mutatis mutandis* in the cases where the investigation under the preceding paragraph is initiated. In these cases, the reference to "within one year" in the first sentence of paragraph 7 shall be deemed to be read "within one year on an accelerated basis".

16. Where it is found that there is a difference between the amount of countervailing duty imposed upon such product in accordance with the provision of paragraph 1 and the actual amount of subsidies with regard to the product of the supplier not subject to an investigation under paragraph 14, the Government may, as may be prescribed in Cabinet Order, modify or abolish to impose the countervailing duty imposed under the provision of the said paragraph, upon the product regarding the supplier not subject to an investigation.

17. Where there are some changes in circumstances with regard to the specified product as enumerated below, the Government may, if it is found to be necessary, as may be prescribed in a Cabinet Order, modify or abolish the countervailing duty imposed under the provision of paragraph 1. (To modify, in this case, includes modifying the specified period under the provision of paragraph 1. This shall apply in this paragraph and the following paragraph). Where the Government modifies the countervailing duty imposed under the provision of paragraph 1, it may extend the specified period under the provision of the said paragraph, if it is found to be necessary, in consideration of both changes in circumstances as enumerated in the following subparagraphs.

- (1) Changes in circumstances with regard to the subsidy regarding the specified product.
- (2) Changes in circumstances with regard to the fact of material injury, etc. to the domestic industry caused by the importation of the specified product.

18. A supplier of the specified product or its association, an importer of the specified product or its association, or a person who has an interest in the domestic industry under the provision of paragraph 1, provided that one year has elapsed since the first date of the specified period under the provision of the said paragraph, may, as may be prescribed in Cabinet Order, submit to the Government sufficient evidence with regard to the existence of changes in circumstances on the specified product as enumerated in subparagraphs (1) or (2) of the preceding paragraph, and request the Government to modify or abolish the countervailing duty imposed under the provision of paragraph 1.

19. The Government shall, upon a request made under the provision of the preceding paragraph or when there is sufficient evidence with regard to changes in circumstances as enumerated in subparagraphs (1) or (2) of paragraph 17, initiate, if it is found to be necessary, an investigation as to whether these changes in circumstances exist.

20. The investigation under the preceding paragraph shall be concluded within one year after the date of its initiation. However, the period may be extended to such an extent as deemed necessary for special reasons.

21. The provisions of paragraphs 8 and 9 shall apply *mutatis mutandis* to the cases where the investigation under paragraph 19 is initiated.

22. Where the countervailing duty is imposed in accordance with paragraph 1, if it is found that the importation of the specified product to which a subsidy is granted and the fact of the material injury, etc. to the domestic industry caused by such importation threat to continue or recur after the expiry of the period specified under the provision of the said paragraph, the Government may, as may be prescribed in the Cabinet Order, extend the specified period.

23. A person who has an interest in the domestic industry under the provision of paragraph 1, may not later than the date one year prior to the last date of the period specified under the provision of the said paragraph, as may be prescribed in Cabinet Order, submit to the Government sufficient evidence with regard to the threat that the importation of the specified product to which subsidies are granted and the fact of the material injury, etc. to the domestic industry caused by such importation would be likely to continue or recur after the expiry of the period specified under the provision of the said paragraph, and request the Government to extend such specified period.

24. The Government shall, upon a request made under the provision of the preceding paragraph or when there is sufficient evidence with regard to the threat that the importation of the specified product to which subsidies are granted and the fact of the material injury, etc. to the domestic industry caused by such importation would be likely to continue or recur after the expiry of the period specified under the provision of paragraph 1, initiate, if it is found to be necessary, an investigation as to whether the threat exists.

25. The provisions of paragraphs 8, 9 and 20 shall apply *mutatis mutandis* to the cases where the investigation under the preceding paragraph is initiated.

26. The specified product to be imported during the period from the date of the initiation to the date of the conclusion of the investigation under paragraph 24 shall be regarded as a product imported during the period specified under the provision of paragraph 1 and the provision of paragraph 1 shall apply to such specified product.

27. Where the period specified under the provision of paragraph 1 is extended in accordance with the provisions of paragraphs 17 or 22, such extension of the period shall be limited to five years from the date as enumerated in each of the following subparagraphs in accordance with the classification of the cases. This shall apply to the case where the Government extends the extended period, the extended period shall likewise be treated.

- (1) Where the Government extends the period in accordance with the provision of paragraph 17. The date of the completion of the investigation under paragraph 19.
- (2) Where the Government extends the period in accordance with the provision of paragraph 22. The date of the completion of the investigation under paragraph 24.

28. The provisions of paragraphs 17 to 21 and the preceding paragraph (excluding subparagraph (2)) shall apply *mutatis mutandis* to the cases where the undertaking accepted in accordance with the provision of paragraph 9 is modified (including the modification of the valid period).

29. Where there is a fact that the amount of the countervailing duty paid by the importer of the specified product exceeds the amount of the actual subsidies of the specified product, the importer may, as may be prescribed in Cabinet Order, submit to the Government sufficient evidence with regard to such fact, and request the Government to reimburse the countervailing duty equivalent to such an excess amount (hereinafter referred to as "reimbursable amount").

30. The Government shall, upon request under the provision of the preceding paragraph, investigate as to whether the reimbursable amount exists and other necessary matters, and on the basis of the investigation, without delay, reimburse the countervailing duty within the limit of the amount requested, or notify the person who requested that there is no ground of request to.

31. The investigation under the preceding paragraph shall be concluded within one year from the date of the request under paragraph 29. However, the period may be extended at most six months if deemed necessary for special reasons.

32. The provision of paragraphs 2 to 7 of Article 13 of the Customs Law (reimbursement and appropriation) shall apply *mutatis mutandis* to the cases where the Government reimburse the countervailing duty in accordance with the provisions of paragraphs 29 to the preceding paragraph. In these cases, the period under the provision of paragraph 2 of Article 13 of the Customs Law that provides for the basis for the calculation of additional refund money under the provision of the said paragraph, shall be calculated from the following date of the request for reimbursement under the provision of paragraph 29.

33. In addition to the matters as provided for in each preceding paragraph, any necessary matters on the application of countervailing duty shall be prescribed by a Cabinet Order.

(Anti-Dumping Duty)

Article 8

1. In the case where there is the fact that importation of dumped product (dumping means, in this Article, a sale of product for export at a price less than the price of the like product in the ordinary course of trade destined for consumption in the exporting country or any other similar price prescribed by a Cabinet Order (hereinafter in this Article referred to as "normal price"), causes or threatens to cause material injury to a domestic industry (that produces the like products of the dumped product, hereinafter in this Article referred to as the same) or materially retards the establishment of domestic industry (hereinafter in this Article referred to as the "fact of material injury, etc. to the domestic industry"), if it is found necessary to protect such domestic industry, as may be prescribed by a Cabinet Order, specifying the product, supplier or supplying country of such product and a period of time (not exceeding five years), a duty (hereinafter in this Article referred to as "anti-dumping duty"), in addition to customs duty chargeable at an applicable rate in the Annexed Tariff may be imposed upon the specified product which is concerned with the specified supplier or supplying country (hereinafter in this Article referred to as "specified product") to be imported during the specified period, in an amount equivalent to or less than the difference between the normal price and the dumped price (hereinafter in this Article referred to as "dumping margin") of such product.

2. In addition to the preceding paragraph, in the case where there is a specified product on which a measure under the provisions of paragraph 9 (hereinafter in this paragraph referred to as "provisional measure") has been taken, and which has been imported during the period as enumerated in any of the following subparagraphs in accordance with the classification of the product, as may be prescribed by a Cabinet Order, an anti-dumping duty in addition to customs duty chargeable at an applicable rate in the Annexed Tariff may be imposed upon such product. In this case, the amount of such anti-dumping duty which may be imposed upon such specified product imported during the period for which the provisional measure has been taken, shall not exceed the amount of the provisional duty that has been imposed under the provisions of subparagraph (1) of the said paragraph or the amount of security that has been ordered to be deposited under the provisions of subparagraph (2) of the said paragraph.

- (1) A product in respect of which it was found that the importation thereof caused material injury to the domestic industry (including those products in respect of which it was found that the importation thereof would cause material injury to the domestic industry unless the provisional measure was taken, hereinafter in the following subparagraph referred to as the same) (excluding the product falling within subparagraphs (2) or (3)). The period for which the provisional measure has been taken.
 - (2) A product upon which a provisional measure has been taken by reason of violation of undertakings accepted in accordance with paragraph 8 (including the cases where the provisions of said paragraph is applied *mutatis mutandis* to paragraphs 14, 24 and 28, and where the provisions of paragraph 24 is applied *mutatis mutandis* to paragraph 31. This shall apply in paragraphs 9 and 31) and in respect of which it is found that the importation thereof has caused material injury to domestic industry. The period commencing on the date 90 days prior to the date of the initiation of the provisional measure or the date of violation of undertakings whichever is later, and ending on the date immediately preceding the date of the specification under the provisions of the preceding paragraph.
 - (3) A product in respect of which it is found that the massive imports thereof in a short period have caused the fact of material injury, etc. to the domestic industry, and which falls within any of the categories of product as enumerated in any of the following subparagraphs and in respect of which it is found difficult to preclude the fact of material injury, etc. to the domestic industry from recurring only by imposing the anti-dumping duty prescribed in the provisions of the preceding paragraph, in the light of the timing of the importation and the quantity of the product imported and the other circumstances. The period commencing on the date 90 days prior to the date of the initiation of the provisional measure or the date of the initiation of the investigation whichever is the later, and ending on the date immediately preceding the day of the specification under the provision of the preceding paragraph:
 - (a) a product which has in the past caused the fact of material injury, etc. to the domestic industry by the reason of dumping;
 - (b) a product in respect of which it is found that the importer was, or should have been, aware that the products were dumped and that the fact of material injury, etc. to the domestic industry would be caused by the importation thereof.
3. The anti-dumping duty under the provisions of the preceding paragraph shall be paid by the importer of the product upon which the anti-dumping duty is to be imposed. In this case, the anti-dumping duty shall be considered to have been paid, if the provisional duty imposed upon the product under the provisions of subparagraph (1) of paragraph 9 was paid.
4. A person who has an interest in the domestic industry under the provisions of paragraph 1 may, as may be prescribed in Cabinet Order, submit to the Government sufficient evidence with regard to the fact of the importation of the dumped product and the fact of the material injury, etc. to the domestic industry caused by such importation, and request the Government to impose an anti-dumping duty upon such product.
5. The Government shall, upon a request made under the provisions of the preceding paragraph or when there is sufficient evidence with regard to the fact of the importation of the dumped product

and the fact of the material injury, etc. to the domestic industry caused by such importation, initiate, if it is found to be necessary, an investigation as to whether those facts exist.

6. The investigation under the preceding paragraph shall be concluded within one year after the date of its initiation. However, the period may be extended at most six months if it is found necessary for special reasons.

7. When an investigation under paragraph 5 has been initiated, the exporter of the product under the investigation may offer to the Government an undertaking to revise prices of such product so that it may be found that the injurious effect of the dumping of such product on the domestic industry is eliminated or to cease exports of such product.

8. When an undertaking under the provisions of the preceding paragraph is offered, and on the basis of sufficient evidence, it can be presumed that there is the fact of the importation of the dumped product and the fact of the material injury, etc. to the domestic industry caused by such importation, the Government may accept such an undertaking (as long as the term of validity of which is less than five years). Where the Government has accepted the undertakings, the Government may suspend the investigation under paragraph 5, unless the export of the product regarding the undertaking wishes to complete the investigation under the said paragraph.

9. The Government may, no sooner than 60 days from the date of the initiation of the investigation, if, on the basis of sufficient evidence (or best information available in the case of violation of undertaking accepted under the provisions of the preceding paragraph), it can be presumed that there is the fact of the importation of the dumped product and the fact of the material injury, etc. to the domestic industry caused by such importation and if it is found necessary to protect such domestic industry, as may be prescribed in Cabinet Order, take any measure of the following against the person who is to import the product, even before the completion of the investigation, specifying the product, supplier or supplying country of such product and period (not exceeding 9 months as prescribed in Cabinet Order), with regard to the specified product relating to the specified supplier or supplying country which is to be imported during the specified period:

- (1) to impose a provisional duty the amount of which is equivalent to or less than the difference between such a price as presumed to be the normal price and such a price as presumed to be the dumped price; or
- (2) to order to deposit a security the amount of which is equivalent to the amount of the provisional duty under the preceding subparagraph, in order to ensure the collection of anti-dumping duty imposed under the provisions of paragraph 2.

10. The Government shall, if it accepts the undertakings in accordance with the provisions of paragraph 8 with regard to the product for which the measure under the provisions of the preceding paragraph was taken, withdraw the measure, as may be prescribed by a Cabinet Order.

11. When the investigation under paragraph 5 has been concluded, the Government shall promptly reimburse the provisional duty paid or release the security deposited under the provisions of paragraph 9, unless it imposes anti-dumping duty in accordance with the provisions of paragraph 2. The amount of the provisional duty paid or the security deposited under the provisions of the preceding paragraph exceeding the amount of anti-dumping duty imposed under the provisions of paragraph 2 shall likewise be reimbursed or released.

12. A new supplier (hereinafter in this Article interpreted as a supplier, when an anti-dumping duty has been imposed specifying the supplying country in accordance with paragraph 1, other than the supplier of the specified product imported in Japan during the period subject to the investigation under paragraphs 5 and 22 and other than the person related to such supplier as prescribed in Cabinet Order) may, as may be prescribed in Cabinet Order, submit to the Government sufficient evidence with regard to the fact that the amount of the anti-dumping duty imposed under the provisions of paragraph 1 on the product of such new supplier is different from the amount of the actual dumping margin of such product, and request the Government to modify or abolish the anti-dumping duty to be imposed upon the product regarding the new supplier.

13. The Government shall, upon a request made under the provisions of the preceding paragraph or when there is sufficient evidence with regard to the fact that the amount of the anti-dumping duty imposed under the provisions of paragraph 1 on the product regarding the new supplier is different from the amount of the actual dumping margin of the product and it is found to be necessary, initiate an investigation as to whether such fact exists.

14. The provisions of paragraphs 6 to 8 shall apply *mutatis mutandis* to in the cases where the investigation under the preceding paragraph is initiated. In these cases, the reference to "within one year" in the first sentence of paragraph 6 shall be deemed to be read "within one year on accelerated basis."

15. When the investigation under paragraph 13 is initiated, notwithstanding the provisions of paragraph 1, the anti-dumping duty under the provisions of said paragraph 1 shall not be imposed on the product which is exported or produced by the new supplier regarding such investigation and imported from the date of the initiation to the date of the conclusion of such investigation (hereinafter in paragraphs 17 and 18 referred to as "during the investigation period"), and unless the anti-dumping duty shall, imposed under the provision of paragraph 1 is modified or continued to impose in accordance with the provisions of the following paragraph, the anti-dumping duty imposed under the provision of paragraph 1 on a product which is exported or produced by the new supplier regarding such investigation, as may be prescribed by a Cabinet Order, shall be abolished from the date of the initiation of such investigation.

16. When a dumping margin with regard to the product relating to the new supplier subject to the investigation under paragraph 13 is found, the anti-dumping duty imposed under the provision of paragraph 1 may, as may be prescribed in Cabinet Order, specifying the period (not exceeding the period from the date of initiation of the investigation to the last date of the period specified in accordance with the provisions of paragraph 1 with regard to the anti-dumping duty imposed under the provisions of the said paragraph), be modified or continued to impose the anti-dumping duty imposed under the provision of paragraph 1, on the product regarding the new supplier which is imported during the specified period.

17. In the cases of the preceding paragraph, the anti-dumping duty to be imposed upon products that are imported during the investigation period shall be paid by the importer of such products upon which the anti-dumping duty is to be imposed. The amount of such anti-dumping duty shall be limited to the amount equivalent to that of anti-dumping duty under the provision of paragraph 1 which shall not be imposed in accordance with the provision of paragraph 15.

18. When the Government, in accordance with the provisions of paragraph 16, modifies or continues to impose the anti-dumping duty imposed under the provisions of paragraph 1 in accordance with the provision of paragraph 16, in order to ensure the collection of such anti-dumping duty under the

provisions of paragraph 1 which is modified or continued, the Government may, as may be prescribed by a Cabinet Order, order the person who is to import a product which is exported or produced by the new supplier relating to the investigation under paragraph 13 during the investigation period to deposit security the amount of which is equivalent to or less than the amount of the anti-dumping duty imposed under the provisions of paragraph 1 which shall not be imposed upon the product in accordance with the provisions of paragraph 15.

19. When the investigation under paragraph 13 has been concluded, and the Government abolishes the anti-dumping duty imposed under the provisions of paragraph 1 in accordance with the provisions of paragraph 15, it shall promptly release the security deposited under the provisions of the preceding paragraph. In the case where the amount of the security deposited under the provisions of the preceding paragraph exceeds the amount of anti-dumping duty imposed under the provisions of paragraph 1 and modified in accordance with the provisions of paragraph 15, such an excess amount of the security shall likewise be released.

20. When there are some changes in circumstances with regard to the specified product as enumerated below, the Government may, if it is found to be necessary, as may be prescribed by a Cabinet Order, modify or abolish the anti-dumping duty imposed under the provisions of paragraph 1 (to modify, in this case, include modifying the specified period under the provisions of paragraph 1. This shall apply in this paragraph and the following paragraph). When the Government modifies the anti-dumping duty imposed under the provisions of paragraph 1, it may extend the specified period under the provisions of the said paragraph, if it is found to be necessary in consideration of both changes in circumstances as enumerated in the following subparagraphs.

- (1) changes in circumstances with regard to the dumping regarding the specified product;
- (2) changes in circumstances with regard to the fact of material injury, etc. to the domestic industry caused by the importation of the specified product.

21. A supplier of the specified product or association thereof, an importer of the specified product or association thereof, or a person who has an interest in the domestic industry under the provisions of paragraph 1, provided that one year has elapsed since the first date of the specified period under the provisions of the said paragraph, as may be prescribed by a Cabinet Order, may submit to the Government sufficient evidence with regard to the existence of changes in circumstances of the specified product as enumerated in subparagraphs (1) or (2) of the preceding paragraph, and request the Government to modify or abolish the anti-dumping duty imposed under the provision of paragraph 1.

22. The Government shall, upon a request made under the provisions of the preceding paragraph or when there is sufficient evidence with regard to changes in circumstances as enumerated in subparagraphs (1) or (2) of paragraph 20, initiate, if it is found to be necessary, an investigation as to whether these changes in circumstances exist.

23. The investigation under the preceding paragraph shall be concluded within one year after the date of its initiation. However, the period may be extended if deemed to be necessary for special reasons.

24. The provisions of paragraphs 7 and 8 shall apply *mutatis mutandis* to the cases where the investigation under paragraph 22 is initiated.

25. When the anti-dumping duty is imposed in accordance with paragraph 1, if it is found that the importation of the specified dumped product and the fact of the material injury, etc. to the domestic industry caused by such importation threat to continue or recur after the expiry of the period specified

under the provisions of the said paragraph, the Government may, as may be prescribed by a Cabinet Order, extend the specified period.

26. A person who has an interest in the domestic industry under the provision of paragraph 1 may, no later than the date one year prior to the last date of the period specified under the provision of the said paragraph, as may be prescribed in Cabinet Order, submit to the Government sufficient evidence with regard to the threat that the importation of the specified dumped product and the fact of the material injury, etc. to the domestic industry caused by such importation would be likely to continue or recur after the expiry of the period specified under the provisions of the said paragraph, and request the Government to extend such specified period.

27. The Government shall, upon a request made under the provisions of the preceding paragraph or when there is sufficient evidence with regard to the threat that the importation of the specified dumped product and the fact of the material injury, etc. to the domestic industry caused by such importation would be likely to continue or recur after the expiry period specified under the provisions of paragraph 1, initiate, if it is found to be necessary, an investigation as to whether the threat exists.

28. The provisions of paragraphs 7, 8 and 23 shall apply *mutatis mutandis* to the cases where the investigation under the preceding paragraph is initiated.

29. The specified product shall, imported during the period from the date of the initiation to the date of the conclusion of the investigation under paragraph 27, be considered as a product imported during the period specified under provisions of paragraph 1 and the provisions of paragraph 1 shall apply to such specified product.

30. Where the period specified under the provisions of paragraph 1 is extended in accordance with the provisions of paragraphs 20 or 25, such extension of the period shall be limited to five years from the date as enumerated in each of the following subparagraphs in accordance with the classification of the cases. This shall also apply to the case where such extended period is extended.

- (1) Where the Government extends the period in accordance with the provisions of paragraph 20; The date of the completion of the investigation under paragraph 22
- (2) Where the Government extends the period in accordance with the provisions of paragraph 25; The date of the completion of the investigation under paragraph 27.

31. The provisions of paragraphs 20 to 24 and the preceding paragraph (excluding subparagraph (2)) shall apply *mutatis mutandis* to the cases where the undertaking accepted in accordance with the provision of paragraph 8 is modified (including the modification of the valid period).

32. When there is a fact that the amount of the anti-dumping duty paid by the importer of the specified product exceeds the amount of the actual dumping margin of the specified product, the importer may, as may be prescribed by a Cabinet Order, submit to the Government sufficient evidence with regard to such fact, and request the Government to reimburse the anti-dumping duty equivalent to such an excess amount (hereinafter referred to as "reimbursable amount").

33. The Government shall, upon request under the provisions of the preceding paragraph, investigate as to whether the reimbursable amount exists and other necessary matters, and on the basis of the investigation, without delay, reimburse the anti-dumping duty within the limit of the amount requested, or notify the person who requested that there is no ground for the request.

34. The investigation under the preceding paragraph shall be concluded within one year from the date of the request under paragraph 32. However, the period may be extended at most six months if deemed necessary for special reasons.

35. The provisions of paragraph 2 to 7 of Article 13 of the Customs Law (reimbursement and appropriation) shall apply *mutatis mutandis* to the cases where the Government reimburses the anti-dumping duty in accordance with the provisions of paragraph 32 to the preceding paragraph. In these cases, the period under the provisions of paragraph 2 of Article 13 of the Customs Law that provides for the basis for the calculation of additional refund money under the provisions of the said paragraph shall be calculated from the following date of the request for reimbursement under the provision of paragraph 32.

36. When a domestic sale of the product imported by an importer associated with an exporter is made at a price less than the selling price for export of the product and its normal price, such a domestic sale shall be regarded as the importation of dumped product and the provisions of the each preceding paragraph shall apply thereto.

37. In addition to the matters as provided for in each preceding paragraph, any necessary matters on the application of anti-dumping duty shall be prescribed by a Cabinet Order. 95.5.2

(Emergency Duties)

Article 9

1. In the case where, as a result of a decline in the price in a foreign country or of unforeseen developments of circumstances, there is the fact that any product of a particular kind is being imported in such increased quantities, absolute or relative to domestic production (hereinafter in this Article referred to as "the fact of import increase of particular product") and that import of such a product causes or threatens to cause serious injury to the domestic industry which produces the like or directly competitive products (hereinafter in this Article referred to as "the fact of serious injury, etc. to a domestic industry"), any of the following measures may be taken, as may be prescribed by a Cabinet Order, specifying product and a period of time which shall not exceed four years including the period specified under the provisions of paragraph 8, if it is deemed urgently necessary to take such measures in the interest of the national economy. However, in the case where the product to be specified includes the product originating in a developing country Member of the World Trade Organization, such product of a developing country Member shall not be specified as long as that developing country Member has a small share of import, by quantity, of product concerned in Japan (hereinafter in this paragraph and paragraph 8 referred to as "product of developing country with small share").

- (1) To impose upon all of the specified product to be imported during the specified period or such a product to be imported exceeding a certain level of quantity or value, in addition to customs duty chargeable at an applicable rate shown in the Annexed Tariff, a duty in an amount equal to or less than the amount corresponding to the difference between the customs value of the said product and the wholesale price in Japan of like or similar product, which is deemed to be appropriate (in the case of similar product, wholesale price in Japan to which adjustment deemed reasonably necessary has been made, taking into account any price difference caused by the difference in the nature and mode of trade between similar product and the said product), minus the amount of customs duty chargeable at an applicable rate in the Annexed Tariff.

- (2) To withdraw the concession or to modify the concession, in the cases where Japan has granted a tariff concession on the specified product under the Marrakesh Protocol to the General Agreement on Tariffs and Trade 1994 in Annex 1A to the Agreement Establishing the World Trade Organization (hereinafter in this Article referred to as the "Marrakesh Protocol") and under any other treaties concluded within the framework of the General Agreement on Tariffs and Trade 1994 Annex 1A to the Marrakesh Agreement Establishing the World Trade Organization (hereinafter in this Article referred to as the "General Agreement"), within the limit of the rate of duty in the Annexed Tariff (in the case where the measure as provided for in the preceding subparagraph has been taken, within the limit of the rate of duty including the customs duty chargeable in accordance with the said subparagraph. This shall apply to the rest of this subparagraph.) in accordance with the provisions of paragraph 1 of Article XIX (emergency action on imports of particular products) of the General Agreement and the Agreement on Safeguards in Annex 1A to the Marrakesh Agreement Establishing the World Trade Organization (hereinafter in this Article referred to as the "Agreement on Safeguards"), and to impose upon such imported product customs duty chargeable at an applicable rate in the Annexed Tariff or customs duty chargeable at the modified rate.
2. In the case where the measure under the provisions of preceding paragraph is to be taken and the expected period specified under the said provisions is over one year, such measure shall be progressively liberalized at regular intervals during the period of application.
3. In the case where the measure under the provisions of subparagraph (2) of paragraph 1 or other measures under the provisions of paragraph 1 of Article XIX of the General Agreement or the Agreement on Safeguards is taken or to be taken on any product, through the consultations based on the provisions of paragraph 2 of Article XIX of the General Agreement (the procedures of emergency measure) or the Agreement on Safeguards, as may be prescribed by a Cabinet Order, tariff concession may be modified on other product the tariff rate of which has been bound or may be bound on other product the tariff rate of which is not bound and such modified or bound tariff rates may be applied.
4. In the cases where any foreign country has withdrawn or modified tariff concession or taken any other measure on particular product in accordance with the provisions of paragraph 1 of Article XIX of the General Agreement and the Agreement on Safeguards (hereinafter in this paragraph and the following paragraph referred to as "Emergency measures by foreign country"), if it is found that there exist those circumstances which are provided for in subparagraph (a) (measures against emergency action) of paragraph 3 of Article XIX of the General Agreement and the Agreement on Safeguards or subparagraph (b) (measures against emergency action in urgent situations) of paragraph 3 of Article XIX of the General Agreement, any of the following measures may be taken with respect to the imported products, as may be prescribed by a Cabinet Order, specifying the product (in the case where a measure as provided for in subparagraph (a) of paragraph 3 of Article XIX of the General Agreement and the Agreement on Safeguards is taken, the country and the product). However, this shall not be applied to the measures taken under the provisions of subparagraph (a) of paragraph 3 of Article XIX of the General Agreement and the Agreement on Safeguards, if such "Emergency measures by foreign country" has been taken, under the provisions of the Agreement of Safeguards, as a result of an absolute increase in imports of such specified product in such foreign country and more than 3 years have not elapsed since such measure was taken.

- (1) To impose upon the said product, in addition to customs duty chargeable at an applicable rate in the Annexed Tariff, a duty in an amount equal to or less than the customs value of the said imported product;
- (2) To suspend application of the Tariff concession in the cases where Japan has granted a tariff concession on the said products under the Marrakesh Protocol or under any other treaties concluded within the framework of the General Agreement, and to impose a customs duty at a rate of duty within the limit of the rate in the Annexed Tariff (in the cases where a measure as provided for in the preceding subparagraph has been taken, within the limit of the rate of duty including the customs chargeable in accordance with the said subparagraph).

5. The measures under the provisions of paragraph 3 or the preceding paragraph shall be taken, with due regard paid to the considerations that they should not exceed, in their effect, the limit necessary to serve as a compensation for the measure under the provisions of subparagraph (2) of paragraph 1 or other measures under the provisions of paragraph 1 of Article XIX of the General Agreement and the Agreement on Safeguards or as a countermeasure against the measures by a foreign country and that their impact upon the national economy should be kept to the minimum.

6. The Government shall, when there is sufficient evidence concerning the fact of import increase of particular product and the fact of serious injury, etc. to a domestic industry caused by such importation, initiate, if it is found to be necessary, an investigation as to whether these facts exist.

7. The investigation as provided for in the preceding paragraph shall be completed within one year after the date when the investigation was initiated. However, the period may be extended to such an extent as deemed necessary for special reasons.

8. In the case where an investigation referred to in paragraph 6 has been initiated, the Government may, if the fact of import increase of a particular product and the fact of serious injury, etc. to a domestic industry caused by such importation are presumed based on sufficient evidences and it is deemed urgently necessary in the interest of the national economy, take any of the following measures even prior to completion of the investigation, as may be prescribed by a Cabinet Order, specifying product and period of time which shall not exceed 200 days. However, in the case where a product to be specified includes the product of developing country with a small share, such product of developing country with small share shall not be specified.

- (1) To impose upon all of the specified product to be imported during the specified period or such product to be imported exceeding a certain level of quantity or value, in addition to a customs duty chargeable at an applicable rate in the Annexed Tariff, a duty in an amount equal to or less than the amount corresponding to the difference between the customs value of the said product and the wholesale price in Japan of like or similar product, which is presumed to be appropriate (in the case of similar product, wholesale price in Japan to which adjustment deemed reasonably necessary has been made, taking into account any price difference caused by the difference in the nature and mode of trade between similar product and the said product), minus the amount of customs duty chargeable at an applicable rate in the Annexed Tariff;
- (2) To withdraw the concession or to modify the concession in the case where Japan has granted a tariff concession on the specified product under the Marrakesh Protocol and under any other treaties concluded within the framework of the General Agreement, within the limit of the rate of duty in the Annexed Tariff (in the case where the measure

as provided for in the preceding subparagraph has been taken, within the limit of the rate of duty including the customs duty chargeable in accordance with the said subparagraph. This shall apply to the rest of this subparagraph) in accordance with the provisions of paragraph 1 of Article XIX of the General Agreement and the Agreement on Safeguards and to impose upon such imported product customs duty chargeable at an applicable rate in the Annexed Tariff or customs duty chargeable at the modified rate.

9. When the investigation referred to in paragraph 6 has been completed, the Government shall, except in the case where the measure under the provisions of paragraph 1 shall be taken, promptly reimburse customs duty paid under the provisions of the preceding paragraph. When the amount of duty which was imposed in accordance with the provisions of the preceding paragraph exceeds the amount of duty which would have been imposed in accordance with the provisions of paragraph 1 upon product specified under the provisions of preceding paragraph and imported during the period when the measure under the provisions of preceding paragraph was taken shall likewise be reimbursed.

10. When the measure under the provisions of paragraph 1 is taken, if it is deemed that the fact of serious injury, etc. to a domestic industry caused by increased imports of products specified under the provisions of said paragraph continues to exist after expiration of the period specified under the provisions of said paragraph and the domestic industry specified under the provisions of said paragraph is adjusting, the period specified under the provisions of said paragraph may be extended, as may be prescribed by a Cabinet Order, provided that the total period specified including the period specified under the provisions of paragraph 8 shall not exceed eight years. In this case, the measure taken under the provisions of paragraph 1 during the extended period shall not be more restrictive against import than the measure taken under the provisions of the said paragraph in the period before the extension.

11. The provisions of paragraphs 6 and 7 shall apply *mutatis mutandis* to the case where the specified period under the provisions of paragraph 1 is to be extended in accordance with the provisions of the preceding paragraph.

12. If the period specified under the provisions of paragraph 1 exceeds three years, the Government shall review the situation not later than the mid-term of such period to withdraw the measure under the provisions of said paragraph or to increase the pace of liberalization.

13. No measure under the provisions of paragraphs 1 or 8 shall be applied again to the import of a product which has been subject to a measure under the provisions of subparagraph (1) or (2) of paragraph 1 or other measures under the provisions of paragraph 1 of Article XIX of the General Agreement and the Agreement on Safeguards (hereinafter in this paragraph referred to as "the emergency measure"), until the time when a period of time equal to the duration for which such a measure has been previously applied or two years, whichever is longer, has elapsed since the date of the termination of the measure. However, this shall not apply to a measure with a duration of 180 days or less (hereinafter in this paragraph referred to as "short-term measure"), if the conditions as provided for in the following subparagraphs are met.

- (1) Such short-term measure is applied after at least one year has elapsed since the date of introduction of the previous emergency measure on the product subject to such a short-time measure.
- (2) Emergency measures have not been applied on the product subject to such short-time measures more than twice for the preceding five years.

14. In the case where the measures as provided for in paragraphs 1, 3 or 4 have been taken, the Cabinet shall, without delay, report to the Diet on the matter.

15. In addition to the matters as provided for in the preceding paragraphs, any necessary matters relating to the application of those provisions shall be prescribed by a Cabinet Order.

(Tariff Quota System)

Article 9-2

1. With regard to any goods, as may be prescribed by a Cabinet Order, for which a rate of duty is fixed in the Annexed Tariff for a specified quantity, the rate of duty shall be applied to such goods which are imported, within the limit of that quantity, by a person who has been given a quota allocation by the Government, on the basis of the quantities of the said goods which have actually been, and are estimated to be used, and taking into account the necessity for the national economy.

2. The method of the allocation and the procedure for receiving the allocation referred to in the preceding paragraph and other matters necessary for application of the provisions as the said paragraph shall be prescribed by a Cabinet Order.

(Reduction or Refund of Customs Duty for Deterioration and Damage, etc)

Article 10

1. In the cases where any imported goods have deteriorated or have been damaged prior to their import permit prior to the approval, with regard to those received goods which are approved in accordance with the provisions of paragraph 1 of Article 73 (receipt of goods prior to import permit of the Customs Law), the customs duty chargeable upon the said goods may be reduced, as may be prescribed by a Cabinet Order, according to the rate of depreciation caused by the deterioration or damage of the said goods, or may be reduced, as may be prescribed by a Cabinet Order, by an amount equal to or less than the difference between the amount of duty chargeable, if the goods have not deteriorated or have not been damaged, on the one hand, and the amount of duty to be determined, taking into account the nature and quantities of the goods so deteriorated or damaged, on the other. However, the reduction of customs duty based on the rate of depreciation (excluding the reduction of customs duty chargeable on the basis of quantity) shall not apply to the case where imported goods have deteriorated or were damaged by the time of import declaration, etc.

2. In the cases, where the goods with an import permit are destroyed, deteriorated or damaged owing to a disaster or any other unavoidable reason, while they were placed, after the import permit was given, in a Hozei area or in any other area designated by the Director-General of Customs in accordance with the provisions of subparagraph (2) of Article 30 (Foreign goods stored, with permission, in areas other than Hozei area) of the Customs Law, the customs duty paid for the goods may wholly or partially be refunded, as may be prescribed by a Cabinet Order¹

¹"Hozei" means the situation where the customs duty and tax are not levied on goods temporarily (i.e., the situation where goods are treated as foreign goods which have not passed the customs border). Areas where goods can be treated in this situation, "Hozei", are called "Hozei" areas. Imported goods are under the Customs control if they are placed in the "Hozei" area and an importer does not have to submit any bond to the customs. Hereinafter in the law, referred to as the same. See Chapter 4 (Hozei Area) of the law.

(Reduction of Customs Duty on Goods Exported for Precessing or Repair)

Article 11

1. With regard to any goods exported from Japan for processing (which is deemed difficult to be undertaken in Japan), or repair abroad and subsequently imported into Japan within one year from the date of their export permit (or within a longer period, exceeding one year, as designated by the Director-General of Customs, when there is a reason to believe that such a longer period exceeding one year is inevitably necessary and if an approval is given by the Director-General of Customs under the provisions of the Cabinet Order) the customs duty may be reduced, as may be prescribed by a Cabinet Order, within the limit of the amount of customs duty chargeable on the said goods, if they would have been imported in the same nature and form as the export permit was given.

[This Article has been amended and now is translating in English]

(Reduction of or Exemption from Customs duty on Daily Living Necessaries)

Article 12

1. In cases where imported rice, hulled or unhulled, barley or wheat falls under any of the following subparagraphs, the customs duty chargeable upon the said goods may be reduced or exempted as may be prescribed by a Cabinet Order, specifying the goods and the period.

- (1) When the aggregate of the customs value, as provided for in Articles 4 to 4-8, of the imported goods, as well as the customs duty and ordinary expenses incidental to delivery of the said goods from the port of importation to the domestic wholesale market is, generally, higher than the wholesale price in Japan of domestically produced goods of similar kind;
- (2) When a bad crop, a natural disaster or any other emergency circumstances warrant such reduction or exemption.

2. The provisions of the preceding paragraph shall apply *mutatis mutandis* to imported pork. For this purpose, the following provisions shall be added to those provided for in subparagraph (1) of the preceding paragraph: "and when it is found that the domestic wholesale price of pork, the standard of which is prescribed by a Cabinet Order, exceeds or threatens to exceed the upper limit of the stabilization price range for the said pork, as prescribed in subparagraph (3) of paragraph 1 of Article 3 of the Law Relating to the Price Stabilization, etc. of Live-Stock Products (Law No. 183 of 1961).

3. When the average import price of raw sugar which is provided for in paragraph 1 (Average import price) of Article 7 of the Law Relating to the Price Stabilization, etc. of Sugar (Law No. 109 of 1965) exceeds the upper limit of the stabilization price range of raw sugar as provided for in paragraph 1 (Upper and lower limits of stabilization prices, etc) of Article 3 of the said Law and when it is deemed difficult to stabilize the price of sugar by means of price adjustment measures for imported sugar which are provided for in Article 6 to 10 (Price adjustment measures) of the said Law, the customs duty chargeable on the imported sugar may be reduced or exempted, as may be prescribed by a Cabinet Order, specifying the kinds of sugar and the period, to the extent by which the average import price, as defined by "A" of subparagraph (1) of paragraph 1 of Article 10 of the said Law, exceeds the upper limit of the stabilization price range, as defined by subparagraph (2) of the said paragraph.

4. With respect to foodstuffs, apparels and any other goods which are closely related to the daily-living of the people (excluding those goods as provided for in the preceding three paragraphs) and are imported from abroad, in the case their import prices rise or threaten to rise sharply and it is found urgently necessary to do so for the stabilization of daily-living of the people, and when it is found that their import would not threaten to cause a considerable injury to a domestic industry in Japan which is producing identical goods or directly competing goods in terms of their uses, the customs duty chargeable on those imported goods may be reduced or exempted, as may be prescribed by a Cabinet Order, specifying the goods and the time period.

(Reduction of or Exemption from Customs Duty on Raw Materials for Manufacture)

Article 13

1. With regard to imported raw materials as provided for in any of the following subparagraphs, the customs duty chargeable upon such raw materials shall be reduced or exempted, as may be prescribed by a Cabinet Order, if the manufacture as provided for in any of the said subparagraphs is completed within one year from the date of import permit at the manufacturing factory approved by the Director-General of Customs.

- (1) Kaoliang and other grain sorghum, Indian corn, soybean, soybean cake and any other raw materials as may be prescribed by a Cabinet Order, which are to be used for the manufacture of mixed feeds as may be prescribed by a Cabinet Order.
- (2) Fruit of date palm (dried only) for use in manufacturing date syrup.
- (3) Peanuts for use in manufacturing peanut oil.

2. The Director-General of Customs shall, when he deems that no difficulty will arise to ensure implementation of this Law and the Customs Law, give an approval as provided for in the preceding paragraph.

3. When customs duty is to be reduced or exempted in accordance with paragraph 1 of this Article, the Director-General of Customs may require a security to be deposited, which is equivalent to the amount of duty so reduced or exempted.

4. When the manufacture as provided for in any of the subparagraphs of paragraph 1 is to be carried out unless the Director-General of Customs approves that no difficulty will arise to confirm the manufacture by means of the raw materials for which customs duty has been reduced or exempted, in accordance with paragraph 1 (hereinafter in this Article referred to as "raw material for manufacture"), no raw materials for manufacture shall be used in mixture with any other raw materials of a similar kind.

5. When the manufacture of raw materials for manufacture has been completed, the manufacturer concerned shall, as may be prescribed by a Cabinet Order, report to the customhouse the quantities of the raw materials for manufacture used and the goods manufactured therefrom, and shall have the goods examined by the customhouse whenever a report is so made or whenever the circumstances warrant such examination.

6. The raw materials for manufacture as specified in any of the subparagraphs of paragraph 1 shall not, within one year from the date of their import permit, be offered for use other than those as specified in any of the said subparagraphs, or be transferred so that they may be offered for use

other than those specified in any of the said paragraphs. However, the foregoing provision shall not apply to the case where, for an unavoidable reason, an approval is given by the Director-General of Customs as may be prescribed by a Cabinet Order.

7. The customs duty reduced or exempted in accordance with the provisions of paragraph 1 shall forthwith be collected, in the cases as specified in any of the following subparagraphs, from any person found to come under any of the said subparagraphs. However, in cases where the raw materials for manufacture or the goods manufactured therefrom were lost owing to a disaster or any other unavoidable reasons or were destroyed with the approval of the Director-General of Customs, the customs duty shall not be collected. In case where the raw materials for manufacture, to which the approval referred to in the proviso to the preceding paragraph was given, have depreciated owing to deterioration, damage or any other unavoidable reason, the customs duty chargeable thereon may be reduced *mutatis mutandis* in accordance with the provisions of paragraph 1 of Article 10.

- (1) When an approval is given to the raw materials for manufacture as specified in any of the subparagraphs of paragraph 1 in accordance with the proviso of the preceding paragraph, or when the raw materials for manufacture are offered for use other than those as specified in any of the said subparagraphs or are transferred so that they may be offered for use other than those as specified in any of the said subparagraphs, without such approval, or when, within one year from the date of their import permit, a report is not made in accordance with the provisions of paragraph 5 or the manufacture thereof is not completed.
- (2) When the raw materials for manufacture are offered for manufacture at any place other than the manufacturing factory approved by the Director-General of Customs under paragraph 1 or when they are used in contravention of the provisions of paragraph 4.

8. Any person who has obtained the approval of the manufacturing factory in accordance with the provisions of paragraph 1 shall pay to be customhouse concerned, as may be prescribed by a Cabinet Order, a fee the amount of which shall be fixed by a Cabinet Order on the basis of the total floor space of the said manufacturing factory, the validity period of the approval and the type of customs service extended to such a factory.

[This Article has been amended and now is translating in English]

(Unconditional Exemption from Customs Duty)

Article 14

1. With regard to imported goods as enumerated below, the customs duty chargeable upon such goods shall be exempted as may be prescribed by a Cabinet Order.

- (1) Articles for use of the Emperor and the Imperial Household.
- (2) Articles belonging to the head of any foreign country or members of his family (i.e. spouse, lineal ascendant, lineal descendant and such relatives as may be deemed to be of a similar standing; hereinafter referred to as the same) or their suites, visiting Japan.

- (3) Decorations, medals, prize-cups and any other similar awards and badges, presented to any resident in Japan by any foreign country, any local public entity which is responsible for any administrative district of such country, and international organization, or such organizations, funds or others of similar standing as may be designated by the Minister of Finance.
- (3-2) Articles for educational or publicity purposes which are presented by the United Nations or specialized agencies thereof, and educational, scientific or cultural films, slides, sound records and other similar articles which are produced by the said organizations.
- (3-3) Official catalogues, pamphlets, posters and other similar articles for an exposition, fair or any other similar exhibition (hereinafter referred to as "exposition, etc." in this subparagraph and in subparagraph (5-2) of paragraph 1 of Article 15) as may be prescribed by a Cabinet Order, which are published by any country participating in such expositions, etc. (including local public entity of such country and international organizations participating in exposition, etc).
- (4) Records and other documents.
- (5) Articles under the state monopoly which are imported by the Government or any person entrusted by the Government.
- (5-2) Currencies imported for the purpose of foreign exchange business by authorized foreign exchange banks which are provided for in Article 11 (Business arrangement) for the Foreign Exchange and Foreign Trade Control Law (Law No. 228 of 1949).
- (6) Samples for receiving orders. However they shall be recognized as being suitable only for samples or be specified by a Cabinet Order as those of extremely small value.
- (6-2) Labels which are to be attached to goods exported from Japan by the manufacturer thereof in order to indicate that the quality of such goods conforms to the conditions set out by any competent organization in the country of destination of the said goods; however, such labels are prescribed by a Cabinet Order as those necessary for exporting the said goods.
- (7) Articles brought into Japan by any person with him, or imported separately by him, as may be prescribed by a Cabinet Order, as unaccompanied goods, who enters into Japan for a purpose other than removal of his residence to Japan (excluding automobiles, vessels, aircrafts, and any other articles as may be designated by Cabinet Order), which are intended for his personal use or are necessary for his professional use. However, they shall be deemed by the customhouse to be appropriate, taking into account the purpose of his entry, the period of his stay, his profession and any other circumstances.
- (8) Articles brought into Japan by any person with him, or imported separately by him, as may be prescribed by a Cabinet Order, as unaccompanied goods, who enters into Japan for a purpose of removal of his residence to Japan (excluding automobiles, vessels, aircrafts, and any other articles as may be designated by Cabinet Order), which are intended for personal and professional use of his own or members of his family. However, these articles shall be limited to those which have already been used by them and may be deemed to be normal and reasonable, taking into account the reason for the removal of their residence, the period of their stay in any foreign country and in

Japan, their profession, the number of members of his family and any other circumstances.

- (9) Articles for the official use which are returned to Japan from the Japanese diplomatic establishments abroad.
- (10) Goods exported from and then imported into Japan without any change in the nature and form at the time of their exportation from Japan. However, duty exemption envisaged in this subparagraph shall not be applied to goods for which duty exemption or reduction was granted in accordance with the provisions of paragraph 1 of Article 17 or paragraph 1 of Article 18, goods manufactured from goods for which duty reduction, exemption or refund was granted in accordance with the provisions of paragraph 1 of Article 19, goods shipped to any foreign country, as envisaged in paragraph 1 of Article 19-2 in cases where duty exemption was granted in accordance with the provisions of the said paragraph, and goods for which customs duty was refunded in accordance with the provisions of paragraph 2 of Article 19-2, of Article 19-3 or of Article 20.
- (11) Containers (including those of similar kind. Hereinafter in sub-paragraph (2) and (3) of paragraph 1 of Article 17 referred to as the same) for any goods exported from Japan, as may be prescribed by a Cabinet Order and were used at the time of the exportation of the said goods or are being used at the time of importation of any goods. In this case, the provisions of the proviso to the preceding subparagraph shall be applied *mutatis mutandis*.
- (12) Deleted.
- (13) Scraps and equipment of any wrecked Japanese vessel or aircraft.
- (14) Goods exported on board any vessel or aircraft which set out from Japan and reshipped to Japan owing to an accident which has involved such vessel or aircraft. In this case, the provisions of the proviso to subparagraph (10) shall be applied *mutatis mutandis*.
- (15) Deleted.
- (16) Appliances manufactured for exclusive use by physically handicapped persons and any other similar articles, which are prescribed by a Cabinet Order.
- (17) Film for newsreels (exposed only) and tape for news (use for recording only). However, in the case where there are plural copies of the same contents, duty exemption shall be granted to only two or less of such copies.
- (18) Articles whose total values for customs duty are equal to or less than ¥ 10,000. (Excluding articles, designated by a Cabinet Order, which are not appropriate to be exempted from customs duty considering influence on Japanese industry or any other circumstances).

(Reduction of Customs Duty for Re-importation)

Article 14-2

1. In the case where the amount of customs duty chargeable upon any imported goods as provided for in any of the following subparagraphs exceeds the amount of customs duty as specified in any of the said subparagraphs, the customs duty shall be reduced, as may be prescribed by a Cabinet Order, by an amount of the difference between the former and the latter.

- (1) Goods manufactured under hozei-work and subsequently reshipped from Japan, which have met the conditions as set forth in the text of subparagraph (10), in the first sentence of subparagraph (11), or in the first sentence of subparagraph (14) of the preceding Article; the amount of customs duty chargeable upon foreign goods which were used as raw materials for manufacture of the said goods, which was not actually levied for the reason that the manufacture was carried out under hozei-work.
- (2) Goods (including the goods as specified in the preceding subparagraph), which fall under the first sentence of subparagraph (10), the first sentence of subparagraph (11) or the first sentence of subparagraph (14) of the preceding Article, and the customs duty on which was reduced, exempted or refunded because of their exportation in accordance with the provisions of subparagraph (1) of paragraph 1 of Article 17, paragraph 1 of Article 19 or paragraphs 1 or 2 of Article 19-2; the amount equivalent to the amount of customs duty reduced, exempted or refunded (in the case of the goods as specified in the preceding subparagraph, the said amount shall be added by an amount as described in the said subparagraph).

(Reduction of or Exemption from Customs Duty on Marine Products, etc. Caught or Gathered in a Foreign Country)

Article 14-3

1. With regard to the importation of marine products which were caught or gathered in any foreign country by any Japanese vessel which set out for fishing from Japan and of products which were processed into the said marine products, or manufactured by using, as raw materials, the said marine products on board any Japanese vessel which set out for fishing from Japan the customs duty on such imported products shall be exempted, as may be prescribed by a Cabinet Order.

2. With regard to the importation of products, as may be prescribed by a Cabinet Order, which derived from processing marine products caught or gathered by any foreign vessel or were manufactured by using such marine products, as raw materials, on board any Japanese vessel which set out for fishing from Japan, the customs duty on such imported products may be reduced, as may be prescribed by a Cabinet Order, within the limit of an amount corresponding to the difference between the amount of customs duty chargeable upon the said imported products and the amount of customs duty chargeable upon the marine products if they would have been imported in the same nature and quantity as those of the said marine products before such processing or manufacture.

(Exemption from Customs Duty for Specific Use)

Article 15

1. Imported goods as specified in any of the following subparagraphs shall be exempted from customs duty, as may be prescribed by a Cabinet Order, if they are not offered for use other than those specified in any of the subparagraphs within two years from the date of import permit.

- (1) Specimens or articles for reference which are exhibited at any school, museum, show place, research institute, laboratory, or any other similar facilities, run by the Government, or a local public entity, or these facilities, which are prescribed by a Cabinet Order, run by any person other than the Government or a local public entity, or articles for scientific research, (which are newly invented or considered difficult to be produced in Japan) or films (exposed only), slides, records, tapes (used for recording only) or any other similar articles for educational use, which are used at such facilities.
- (2) Articles donated to any facilities as specified in the preceding subparagraph for the purpose of scientific research or education.
- (3) Supplies donated for charity or relief and articles, except supplies, donated to relief institutes, institutes for senior citizens or any other facilities for public welfare work, which are deemed to be offered for direct use for public welfare at such facilities.
- (3-2) Articles, other than those as specified in any of the preceding three subparagraphs, donated for promoting international good will to the Government or any local public entity for its own use.
- (4) Articles, as specified by an Ordinance of the Ministry of Finance, donated to any religious organization, which are offered for direct use for ceremony or religious worship.
- (5) Instruments and appliances donated to the Japan Red Cross Society by the International Red Cross Institution or the Red Cross Society of any foreign country, which are deemed to be offered for direct use for medical purposes by the Japan Red Cross Society.
- (5-2) The following articles which are imported by participants in an exposition, etc. for use at such exposition, etc. However, they shall be limited to those which may be deemed appropriate in view of the period of time and the scale of the said exposition, etc., the kind and value of the said articles and any other circumstances.
 - A. Catalogues, pamphlets, posters and any other similar articles, other than those as specified in subparagraph (3-3) of Article 14, which are distributed free of charge by participants in an exposition, etc. to visitors on the site of the said exposition, etc.
 - B. Mementoes of an exposition, etc. and samples of exhibits shown therein which are distributed free of charge by participants in the said exposition, etc. to visitors on the site of the said international exposition, etc.

- C. Goods, as may be prescribed by a Cabinet Order, which are to be consumed on the site of an exposition, etc. (as may be prescribed by a Cabinet Order only) for the construction, maintenance, removal or management of the facilities of the said exposition, etc.
- (6) Deleted.
- (7) Deleted.
- (8) Instruments, appliances and parts thereof as may be designated by a Cabinet Order, used for safe landing and take-off or safe navigation of an aircraft.
- (9) Automobiles, vessels, aircrafts or any other articles, as designated by a Cabinet Order, which are brought by any person with him, or imported separately by him, as may be prescribed by a Cabinet Order, as unaccompanied goods, who enters into Japan for the purpose of removal of his residence to Japan and which are intended for the personal use of his own or members of his family. However, they shall be limited to those which have been used by them before the entry into Japan (In the case of vessel and aircraft, it is necessary that they have been used by them for more than one year before entry into Japan).
- (10) Goods, as may be prescribed by a Cabinet Order, the customs duty on which is to be exempted on the condition that they should be offered for specific use, after their importation, under the provisions of any international treaty.

2. In the cases where any goods which were exempted from customs duty in accordance with the provisions of any of the subparagraphs of the preceding paragraph are, within two years from the date of their import permit, offered for use other than those specified in any of the said subparagraphs or transferred so that they may be offered for use other than those specified in any of the said subparagraphs, the customs duty so exempted under the said paragraph shall forthwith be collected from any person who offered such goods for use other than those specified or who transferred such goods in the manner mentioned above. However, in cases where the said goods are offered for use other than those specified in any of the said subparagraphs owing to the deterioration, damage or any other unavoidable reason, the customs duty may be reduced *mutatis mutandis* in accordance with the provisions of paragraph 1 of Article 10.

(Exemption from Customs Duty on Goods for Diplomats, etc)

Article 16

1. With regard to any imported goods as specified in any of the following subparagraphs, the customs duty chargeable thereon shall be exempted as may be prescribed by a Cabinet Order.

- (1) Articles for official use of any foreign embassy, legation or other establishment of similar standing in Japan. However, in cases where any foreign country maintains restrictions upon duty exemption against articles for official use of any such Japanese establishment in that country, the duty exemption shall be made on a reciprocal basis.
- (2) Imported articles for personal use of any foreign Ambassador, Minister or any other envoy of similar standing accredited to Japan and members of his family. However, in cases where any foreign country maintains restrictions upon duty exemption against

articles for personal use of any Japanese Ambassador, Minister and any other envoy of similar standing accredited to that country and their family members, the duty exemption shall be made on a reciprocal basis.

- (3) Articles which are to be offered only for official use of any foreign consulates or any other establishments of similar standing in Japan. However, in cases where any foreign country maintains restrictions upon duty exemption against articles for official use of any such Japanese establishment in that country, the duty exemption shall be made on a reciprocal basis.
- (4) Articles for personal use of any member, as designated by a Cabinet Order, of any foreign embassy, legation, consulate or any other establishment of similar standing in Japan (excluding any honorary consul-general and honorary-consul) and members of his family (excluding any person having Japanese nationality), when imported by such members. However, in cases where any foreign country maintains restrictions upon duty exemption against articles for personal use of such Japanese members and his family, the duty exemption shall be made on a reciprocal basis.

2. When the goods, as designated by a Cabinet Order, have been exempted from customs duty under the preceding paragraph and were offered within two years from the date of their import permit, for use other than those specified in the said paragraph (except when the articles were offered for use other than those specified in the said paragraph owing to an unavoidable reason as may be prescribed by a Cabinet Order), the customs duty exempted under the said paragraph shall forthwith be collected from any person who offered the said articles for such other purposes. However, in cases where the articles have depreciated owing to the abrasion resulted from their use or to any other reason, the customs duty to be so collected may be reduced *mutatis mutandis* in accordance with the provisions of paragraph 1 of Article 10.

(Exemption from Customs Duty for Re-exportation)

Article 17

1. With regard to any imported goods as specified in any of the following subparagraphs, the customs duty chargeable thereon shall be exempted, as may be prescribed by a Cabinet Order, if they are exported within one year (within a period which is prescribed by a Cabinet Order, in the case of goods as specified in subparagraph (11); or, within a period as designated by the Director-General of Customs which is longer than the said period, in the case of goods to which an approval was given by the Director-General of Customs, as may be prescribed by a Cabinet Order, for the reason that there is an unavoidable cause to postpone the said period) from the date of import permit thereof.

- (1) Goods to be processed or offered as materials for processing, as may be prescribed by a Cabinet Order.
- (2) Containers for imported goods as may be prescribed by a Cabinet Order.
- (3) Goods to be used as containers for export goods as may be prescribed by a Cabinet Order.
- (4) Goods to be repaired.

- (5) Articles for scientific research.
 - (6) Articles for testing.
 - (6-2) Articles to be used by any person exporting or importing goods, for testing the capacity or performance of, or for examining the quality of, the goods so exported or imported.
 - (7) Samples for receiving orders or for manufacturing, or photographs, films, models or any other similar articles only used as substitutes for those samples.
 - (7-2) Articles to be used at international athletic meets, international conferences or the like.
 - (8) Articles for the performance of travelling showmen entering Japan and instruments and implements to be used for taking film by motion picture producers entering Japan.
 - (9) Articles for exhibiting at an exposition, exhibition competition, etc.
 - (10) Automobiles, vessels, aircrafts or any other goods, as designated by a Cabinet Order, which are brought into Japan by any person with him, or imported separately by him, as may be prescribed by a Cabinet Order, as unaccompanied goods, which enter into Japan for the purpose other than removal of his residence to Japan and which are intended for his own personal use.
 - (11) Goods, as may be prescribed by a Cabinet Order, which are, under the provisions of any treaty concerned, exempted from customs duty on condition that they should be exported within a specified period of time after their importation.
2. The provisions of paragraph 3 of Article 13 shall apply *mutatis mutandis* to the case where customs duty is exempted under the preceding paragraph.
3. Any person who enjoyed the benefit of duty exemption under the provisions of paragraph 1 shall, when he exports the goods, the customs duty on which was so exempted, with the period referred to in the said paragraph, report to the customhouse to that effect, as may be prescribed by a Cabinet Order.
4. In cases where the goods customs duty on which was exempted under paragraph 1 have not been exported within the period of time as specified in the said paragraph or were offered for the use other than those specified in any of the subparagraphs of the said paragraph, the customs duty exempted under the said paragraph shall forthwith be collected.
5. The provisions of the proviso to paragraph 7 of Article 13 shall apply *mutatis mutandis* to the case where customs duty is collected under the provisions of the preceding paragraph. In this case, the terms "the raw materials for manufacture or the goods manufactured therefrom" and "the raw materials for manufacture, to which the approval referred to in the proviso to the preceding paragraph was given" in the proviso to paragraph 7 of the said Article shall read "the said goods".

(Reduction of Customs Duty for Re-exportation)

Article 18

1. With regard to those goods, as may be prescribed by a Cabinet Order, which may be used for a long period of time and which are imported to be used temporarily in Japan, normally in accordance with a lease contract or in connection with an implementation of a contract, and are exported within two years (or, within such a period as may be prescribed by a Cabinet Order, not exceeding five years, for those goods, as may be prescribed by a Cabinet Order, which may be used for a particularly long period of time; hereinafter in paragraph 3 referred to as the same) from the date of their import permit, the customs duty chargeable thereon may be reduced, as may be prescribed by a Cabinet Order.
2. When customs duty is to be reduced in accordance with the provisions of the preceding paragraph, the Director-General of Customs may require a security to be deposited, which shall be equivalent to the amount of customs duty so reduced.
3. In the case where the goods the customs duty on which was reduced under paragraph 1 have not been exported within two years from the date of their import permit, the customs duty so reduced under the said paragraph shall forthwith be collected. In this case, the provisions of paragraph 5 of the preceding Article shall apply *mutatis mutandis*.
4. The provisions of paragraph 3 of the preceding Article shall apply *mutatis mutandis* to any person for whom customs duty was reduced under the provisions of paragraph 1.

(Reduction of Exemption from or Refund of Customs Duty on Raw Materials for Manufacturing Export Goods)

Article 19

1. With regard to any imported raw materials which are to be used for manufacturing export goods and are prescribed by a Cabinet Order, the customs duty chargeable thereon shall be reduced, exempted or refunded wholly or partially, as may be prescribed by a Cabinet Order, if the said manufacturing is carried out at the manufacturing factory approved by the Director-General of Customs and the goods manufactured from the said raw materials are exported. In this case, reduction or exemption from customs duty shall only be made when the said goods are exported within two years (or, with regard to products manufactured in accordance with paragraph 3, within such a period of time as designated by the Director-General of Customs within the limit of one year) from the date of import permit of the said raw materials.
2. The provisions of paragraphs 2 to 6 and 8 of Article 13 shall apply *mutatis mutandis* to the case where customs duty is reduced or exempted under the preceding paragraph. In this case, the first sentence of paragraph 6 of Article 13 shall read "The raw materials customs duty on which was reduced or exempted under paragraph 1 of Article 19 or the goods manufactured from the said raw materials shall not, within two years (or, with regard to goods manufactured in accordance with the provisions of paragraph 3 of the said Article, within such a period of time as designated by the Director-General of Customs within the limit of one year) from the date of the import permit of the raw materials, be offered for use other than those as provided for in paragraph 1 of the said Article or transferred so that they may be offered for use other than those as provided for in the said paragraph or offered for use other than exportation or transferred so that they may be offered for use other than exportation".

3. When, in cases where any goods are manufactured, with an approval by the Director-General of Customs under paragraph 4 of Article 13, which is applied *mutatis mutandis* in the preceding paragraph, from the raw materials customs duty on which was reduced or exempted under paragraph 1 (hereinafter in this Article referred to as "raw materials for manufacturing export goods"), in mixture with any other raw materials of a similar kind, and the goods so manufactured have the same quality as those which would have been manufactured solely from the raw materials for manufacturing export goods, and the said goods are exported within such a period of time as designated by the Director-General of Customs within the time of one year from the date of import permit of the said raw materials for manufacturing export goods, a quantity of raw materials for manufacturing export goods which is necessary to manufacture the said export goods shall, within the limit of the quantity of the said raw materials for manufacturing export goods, as may be prescribed by a Cabinet Order, be regarded as used for manufacture of the said export goods.

4. The customs duty reduced or exempted under paragraph 1 shall forthwith be collected, in any of the cases as enumerated in any of the following subparagraphs, from any person found to come under any of the said subparagraphs. In this case, the provisions of the proviso to paragraph 7 of Article 13 shall apply *mutatis mutandis*.

- (1) When an approval as provided for in the proviso to paragraph 6 of Article 13 which is applied *mutatis mutandis* in paragraph 2 is given with regard to raw materials for manufacturing export goods, or when the materials for manufacturing export goods are offered for use other than those as provided for in paragraph 1 without the said approval or are transferred so that they might be offered for use other than those as provided for in the said paragraph, or when an approval as provided for in the proviso to paragraph 6 of Article 13 which is applied *mutatis mutandis* in paragraph 2 is given with regard to the goods, or when the goods are offered for use other than exportation or are transferred so that they might be offered for use other than exportation, without the said approval.
- (2) When the report as provided for in paragraph 5 of Article 13, which is applied *mutatis mutandis* in paragraph 2, is not made or the goods are not exported, within two years (with regard to the goods manufactured under paragraph 3, within the period of time as designated by the Director-General of Customs under paragraph 1) from the date of import permit of the materials for manufacturing export goods.
- (3) When the raw materials for manufacturing export goods are offered for manufacture at a place other than the manufacturing factory approved by the Director-General of Customs under paragraph 1 or when they are used in contravention of paragraph 4 of Article 13 which is applied *mutatis mutandis* in paragraph 2.

5. For the purpose of application of the provisions concerning the refund of customs duty under paragraph 1, the exportation referred to in the said paragraph shall mean to include the reshipment to any foreign country of any foreign goods which are manufactured from the raw materials referred to in the said paragraph in mixture with foreign goods which are the raw materials for Hozei-work.

(Exemption from or Refund of Customs Duty in the case of Export of Products Manufactured from Duty-Paid Raw Materials, etc.)

Article 19-2

1. When, in cases where an order is received from a foreign country to purchase any products being manufactured at a hozei manufacturing warehouse, it is confirmed, as may be prescribed by a Cabinet Order, by the Director-General of Customs that it is difficult to manufacture the products from raw materials, which are foreign goods being used at the hozei manufacturing warehouse, and to ship them to a foreign country within the period of delivery referred to in the purchase order, whereas the products manufactured at the hozei manufacturing warehouse from raw materials which are not foreign goods but similar to the above-mentioned raw materials (in case of any of the products as may be prescribed by a Cabinet Order, the products manufactured from raw materials which are not foreign goods) are shipped to a foreign country, there shall be exempted from customs duty, as may be prescribed by a Cabinet Order, on foreign goods similar to the said raw materials which are to be imported by the person who manufactured the said products within six months from the date of export permit (including permit of reshipment; hereinafter in the next paragraph referred to as the same) of the said products, within the limit of a quantity, to be confirmed by the Director-General of Customs, of raw materials, other than foreign goods, which have been used for manufacturing the said products (in case where any other goods are manufactured simultaneously in the process of manufacturing the said products, a quantity as may be prescribed by a Cabinet Order as corresponding to the said products out of the quantity of the said raw materials).

2. When, in cases where it is deemed necessary to use duty-paid imported goods as raw materials for manufacturing export goods in the course of hozei-work at a hozei manufacturing warehouse for the reason that stocks for foreign goods which are intended to be used as raw materials had been used up or for any other reason, and it is deemed difficult to have the provisions of the preceding paragraph applied to the situation, the said imported goods are entered, with a prior approval of the Director-General of Customs, into the hozei manufacturing warehouse without any change in nature and form at the time of their importation within three months after their import permit and goods manufactured from the said imported goods are exported, the customs duty paid for the imported goods may, as may be prescribed by a Cabinet Order, be wholly or partially refunded.

3. The provisions of Article 54 (Obligation of Record-Keeping) and Article 58 (Report on hozei-work) of the Customs Law shall apply *mutatis mutandis* to the goods entered into a hozei manufacturing warehouse, to which the provisions of the preceding paragraph is applied.

[This Article has been amended and now is translating in English]

(Refund of Customs Duty when Imported Goods are Re-exported in the same condition as Imported)

Article 19-3

When the goods the customs duty on which has been paid in accordance with a Cabinet Order are re-exported from Japan without any change in nature and form at the time of their importation, the customs duty may be refunded, as may be prescribed by a Cabinet Order, if the said goods are to be exported from Japan within one year (within such longer period exceeding one year, as designated by the Director-General of Customs, when there is a reason to believe that such a longer period exceeding one year is inevitably necessary and if an approval is given by the Director-General of Customs under the provision of the Cabinet Order) from the date of their import permit.

(Refund of Customs Duty when Claimed Merchandise, etc. are Re-exported or Destroyed)

Article 20

1. When any duty-paid imported goods, which come under any of the following subparagraphs, are exported (or, exported for return, in the case of the goods as enumerated in subparagraph (1) below) from Japan without change in the nature and form at the time of their importation, there may be refunded customs duty, as may be prescribed by a Cabinet Order, if the said goods have been entered into the hozei area (including such place as designated by the Director-General of Customs under subparagraph (2) of Article 30 (Restriction on places where foreign goods may be stored) of the Customs Law; hereinafter in the next paragraph referred to as the same) within six months (in case where it is approved by the Director-General of Customs, as may be prescribed by a Cabinet Order, that there is an unavoidable reason to have a longer period than six months, within such a longer period, as may be designated by the Director-General of Customs, exceeding six months but not exceeding one year; hereinafter in the next paragraph referred to as the same) from the date of their import permit.

- (1) Goods with respect to where it is found to be unavoidable to return them due to the difference in quality, or quantity, etc. between such goods and the content of the contract.
- (2) Goods with respect to where it is found to be unavoidable to export them for the reason that, after the time of their importation, their sale or use or sale or use of any goods manufactured from them is prohibited under legislation (including any disposition made thereunder).

2. When, in cases where it is deemed unavoidable to destroy the imported goods, as provided for in the preceding paragraph, rather than to reship them, they are entered into a hozei area within six months from the date of their import permit and destroyed with a prior approval of the Director-General of Customs, the customs duty paid for the goods, as may be prescribed by a Cabinet Order, may be wholly or partially refunded.

(Restriction, etc. on Use Other Than Those Specified Goods to which Reduced Rates Were Applied)

Article 20-2

1. With regard to goods, as may be prescribed by a Cabinet Order, for which the rates of customs duty are fixed on condition that the goods should be offered for particular uses as specified in the Annexed Tariff, any person who wishes to obtain the benefit of application of the rates of customs duty chargeable on such condition that goods should be offered for specified uses (as long as the said rates of customs duty are lower than the rates of customs duty which do not make it conditional that the goods should be offered for specified uses: hereinafter referred to as "reduced rates") shall go through formalities as may be prescribed by a Cabinet Order.

2. The goods to which the reduced rates referred to in the preceding paragraph were applied shall not, within two years from the date of their import permit, be offered for use other than the use for which the reduced rates were applied or be transferred so that they may be offered for use other than the said use. However, the foregoing provisions shall not apply to the case where an approval of the Director-General of Customs is given for unavoidable reasons as may be prescribed by a Cabinet Order.

3. In the case where an approval as provided for in the proviso to the preceding paragraph was given to the goods to which the reduced rates as provided for in paragraph 1 were applied or in the

case where the said goods were offered for use other than the use for which the reduced rates were applied or were transferred so that they might have been offered for use other than the said use, without the said approval, a customs duty equivalent to the difference between the amount of customs duty calculated on the basis of the rate of customs duty chargeable if it is not conditional that the said goods should be offered for specified use, on the one hand, and the amount of customs duty calculated on the basis of the said reduced rates, on the other, shall forthwith be collected from the person found to come under any of the aforementioned circumstances. The provisions of the proviso to paragraph 7 of Article 13 shall apply *mutatis mutandis* to this case.

(Offer for Use Other Than Those Specified of Goods to which Reduction of or Exemption from Customs Duty, etc. was Applied)

Article 20-3

1. In the cases where any goods, to which duty-exemption, duty-reduction or reduced rates of duty were applied under the provisions of paragraph 1 of Article 13, paragraph 1 of Article 15, paragraph 1 of Article 16, paragraph 1 of Article 17, paragraph 1 of Article 19 or paragraph 1 of the preceding Article, are offered for use other than the use for which such reduction or exemption or reduced rates of duty were applied or are transferred so that they may be offered for use other than the said use, when any person, who is to offer them for use other than the said use or is to transfer them so that they may be offered for use other than the said use, is required to obtain an approval, from the Director-General of Customs for such an offer or transfer and when he (or, in case where the goods are transferred so that they may be offered for use other than the said use, the person to whom the goods are transferred) receives a verification, as may be prescribed by a Cabinet Order, from the Director-General of Customs that the offer of the said goods for use other than the said use meets the conditions for duty reduction or exemption as provided for in the provisions of the law concerning reduction or exemption from customs duty (hereinafter in the next paragraph referred to as "reduction or exemption clause") and thus comes under any of the cases as may be prescribed by a Cabinet Order, the customs duty to be collected under the provisions of paragraph 7 of Article 13, paragraph 2 of Article 15, paragraph 2 of Article 16, paragraph 4 of Article 17, paragraph 4 of Article 19 or paragraph 3 of the preceding Article shall not be collected, notwithstanding the provisions of these Articles.

2. When the verification, as provided for in the preceding paragraph, is received from the Director-General of Customs, the provisions of this Law and the Customs Law as well as any other laws relating to customs duty shall apply on the assumption that the goods so verified shall be regarded as the goods to which, at a time of such verification, a reduction or exemption clause was applied for the use so verified and an import permit was given, and that the person also verified shall be regarded as an importer of the goods who enjoyed the benefit of the reduction or exemption clause.

(Import-Prohibited Goods)

Article 21

1. Any goods specified in any of the following subparagraphs shall not be imported.
 - (1) Narcotic drugs, marijuana, opium, poppy straw, stimulants (including their raw materials stipulated by the Stimulants Control Law) and utensils for opium smoking, excluding those imported by the Government or any person who has obtained an approval of the Government.

- (2) Counterfeit, altered or imitated articles of coins, paper money, banknotes or securities.
- (3) Books, drawings, carvings and any other articles, to injure public security or morals.
- (4) Articles to infringe upon rights in patents, utility-models, designs, trade marks, or copyright or neighbouring right.

2. The Director-General of Customs shall be authorized to confiscate and destroy the goods as provided for in subparagraphs (1), (2) or (4) of the preceding paragraph, which are to be imported, or to order any importer to reship such goods.

3. In the case where there are any goods, with respect to which there are sufficient reasons to believe that they correspond to any of the articles as specified in subparagraph (3) of paragraph 1, among goods which are about to be imported in accordance with the provisions of Chapter VI of the Customs law, the Director-General shall notify the person who is to import the said goods.

(Customs Tariff Council)

Article 22

1. For the purpose of investigation and deliberation of any amendment to the Annexed Tariff and any other important matters relating to the rate of customs duty, upon referral from the Minister of Finance, there shall be established the Customs Tariff Council in the Ministry of Finance.

2. The Customs Tariff Council may submit to the Minister of Finance a recommendation on the matters relating to the rate of customs duty.

3. The Customs Tariff Council shall consist of no more than 45 members.

4. The members of the Council shall be appointed by the Minister of Finance from among persons of learning and experience in the fields of finance, industry and trade, etc. The term of office shall be two years. However, any member may be reappointed.

5. The member who was elected as Chairman of the Customs Tariff Council by mutual vote among the members shall preside over the affairs of the Council.

6. The members shall serve on a part-time basis.

7. Matters necessary for the organization and management of the Customs Tariff Council, other than those as provided for in the preceding paragraphs, shall be prescribed by a Cabinet Order.

(Territory Regarded as a Foreign Country)

Article 23

For the purpose of application of this Law, the territory of Japan as may be prescribed by a Cabinet Order shall, for the time being, be regarded as a foreign country.

Supplementary Provisions (Omitted)

Annexed Tariff (See - "Customs Tariff Schedules of Japan", published by Japan Tariff Association)

[Provisional Translation]

Cabinet Order Relating to Anti-Dumping Duty

(Cabinet Order No. 416, December 1994)

(Definition)

Article 1

For the purpose of this Cabinet Order, the terms "supplier", "supplying country", "specified product", dumping margin or "reimbursable amount" mean "supplier", "supplying country", "specified product", dumping margin and "reimbursable amount" as provided for in paragraphs 1 or 32 of Article 8 of the Customs Tariff Law (hereinafter referred to as "the Law") respectively.

(Normal Value)

Article 2

1. The term "price as may be prescribed by a Cabinet Order" under the provisions of paragraph 1 of Article 8 of the Law shall be any of the following:

- (1) the price of the like product, in the ordinary course of trade, destined for consumption in the country of origin of the imported product;
- (2) the selling price of the like product for export to any country other than Japan from the supplying country of the imported product;
- (3) the costs of production of the imported product plus normal profit and administrative, selling and general costs for the like product, produced in the country of origin;
- (4) the price of the like product, in the ordinary course of trade, destined for consumption in the comparable country in the most similar economic development stage to the supplying country of the imported product, the selling price of the like product for export from the comparable country in the most similar economic development stage to the supplying country or the costs of production of the like product in the comparable country in the most similar economic development stage to the country of origin plus normal profit and administrative, selling and general costs of the like product.

2. For the purpose of application of the provisions of paragraph 1 of Article 8 of the Law, the prices in sub-paragraphs (2) or (3) of the preceding paragraph may be used only in the cases where there is no price of the like product, in the ordinary course of trade destined for consumption in the supplying country or where, because of the particular market situation of the said supplying country or the low volume of the sales of the like products in the said supplying country, it is deemed inadequate to use the price of the like products in the ordinary course of trade destined for consumption in the said supplying country, and the prices as prescribed in sub-paragraph (4) of the said paragraph may be used only in the cases where the supplying country of the imported goods is the country referred to in 2 of paragraph 1 of Article VI of Notes and Supplementary provisions in Annex I to the General

Agreement on Tariffs and Trade 1994 in Annex 1A to the Agreement Establishing the World Trade Organization.

3. The normal value referred to in paragraph 1 of Article 8 of the Law shall be the price obtained after necessary adjustment is made for the difference in price resulted from the difference in transaction stages, quantity or any other conditions affecting price comparably between the normal value and the selling price for export of the imported goods in question.

(Special Provision on Selling Price for Export)

Article 3

For the purpose of application of the provisions of paragraph 1 of Article 8 of the Law, in cases where there is no selling price for export of the imported goods in question or where it is not deemed adequate to use such selling price for export of the imported products because the exporter of the imported products is associated with the importer thereof (including any person who transacted such products in Japan), the selling price for export of the imported products in question shall be calculated on the basis of the price for domestic sale at which the imported products are first resold to any person who is not associated with any of the exporters or importers of such products (when the price for domestic sale is the price at which they are sold after having processed the imported products as raw material, on the basis of the price for domestic sale, minus the value added by such production).

(Industry in Japan)

Article 4

The term "industry in Japan" as provided for in paragraph 1 of Article 8 of the Law shall be interpreted as referring to the producers in Japan whose collective output of the like products constitutes more than a substantial proportion of the total domestic production of the like products. The domestic producer as provided for in the preceding paragraph shall not include producers who have imported the said imported goods after the date six months prior to the date (in the case that there is no request and investigations shall be initiated as provided for in paragraphs 5, 22 (including the case shall be applied *mutatis mutandis* in paragraph 31) or 27, the said date is the date of initiating investigations) of request as provided for in paragraphs 4, 27 (including the case where it is applied *mutatis mutandis* in paragraph 31) or 26 nor related producers who:

- (1) directly or indirectly control the supplier or importer of the imported products.
- (2) are directly or indirectly controlled by the supplier or importer of the imported products.
- (3) are directly or indirectly controlled by a third person who directly or indirectly controls the supplier or importer of the imported products, or
- (4) directly or indirectly control an identical third person, together with the supplier or importer of the imported products.

However, this article is not applied to the related producers who submit the evidence proving that the effect of the relationship does not make the producer concerned behave differently from non-related producers, when the content of the said evidence is recognized appropriate.

(Interested Parties for Domestic Industry)

Article 5

1. The term "interested parties for domestic industry" provided for in paragraphs 4, 21 and 26 of Article 8 of the Law, shall be:

- (1) a domestic producer of the like product or an association a majority of the members of which are domestic producers of a like product of the imported products (referred to as "interested producers, etc." in Articles 7 and 10) and whose total output of the like products constitutes not less than 25 per cent of the total domestic production.
- (2) a labour union consisted of direct or indirect members who are engaged in production of the like product of the imported products (referred to as "interested labour union" in Articles 7 and 10) and the total number of such members constitutes not less than 25 per cent of the total number of labours who are engaged in such production.

2. Producer who is not included in the domestic producer pursuant to the provision of paragraph 2 of the preceding Article, shall not be included in the domestic producer provided for in sub-paragraph (1) of the preceding paragraph. Labour who is engaged in the production of the like product under producer who shall not be included in the domestic producer as provided for in paragraph 2 of the said Article shall not be included in the member as provided for in sub-paragraph of the preceding paragraph.

(A person who is not a new supplier)

Article 6

The term "a person who is related to the suppliers of the specified products as may be prescribed in Cabinet Order" under the provision of paragraph 12 of Article 8 of the Law shall be any of the following persons.

- (1) A person who directly or indirectly controls the said suppliers
- (2) A person who is directly or indirectly controlled by the said suppliers
- (3) A person who is directly or indirectly controlled by a third person who directly or indirectly controls the said supplies
- (4) A person who, together with the said suppliers, directly or indirectly controls the same third person

(Procedure on Request for Levying of Anti-Dumping Duty)

Article 7

1. Any person, who is to make a request to the Government to improve anti-dumping duties in accordance with the provisions of paragraph 4 of Article 8 of the Law, (hereinafter in this paragraph referred to as "applicant") shall submit to the Minister of Finance written information stating the following matters, together with sufficient evidence as to the fact of importation of dumped products

and the fact of material injury, etc. to an industry in Japan caused by the said importation as provided for in the provisions of paragraph 4 of the said Article.

- (1) The name and address of the applicant,
- (2) The description, name, type, model and features of the products,
- (3) The name of the supplier or supplying country of the products,
- (4) The reason for being one of the interested parties for domestic industry as provided for in paragraph 1 of Article 5,
- (5) The summary as to the fact of importation of the dumped products and the fact of the material injury, etc. to the industry in Japan caused by such importation, as provided for in paragraph 4 of Article 8 of the Law,
- (6) A request for confidential treatment of part of the description of the submitted documents or a part or all of the evidence (hereinafter in this Article referred to as "evidence, etc.") presented, if necessary, and the reason therefor,
- (7) The degree of support for the applicant by the interested producers on the interested labour unions, as requested in paragraph 4 of Article 8 of the Law,
- (8) Any other relevant matters.

2. With regard to the anti-dumping duty imposed in accordance with the provisions of paragraph 1 of Article 8, the new supplier as provided for in paragraph 12 of the said Article who is intended to request the government to change or eliminate the said anti-dumping duty (hereinafter in this paragraph, referred as "the applicant") shall submit to the Minister of Finance the following information in writing as well as sufficient evidence of the fact that the amount of the anti-dumping duty imposed upon the product of the applicant differs from the amount of actual dumping margin and a document pledging the applicant is not related to the supplier of the specified products imported in Japan within the investigation period under paragraph 5 or 22 of the said Article.

- (1) The name and address of the applicant,
- (2) The description, name, type, model and features of the specified products on which the anti-dumping duty is imposed,
- (3) The fact that the applicant is an uninvestigated supplier under paragraph 12 of Article 8 of the Law,
- (4) The summary as to the fact that there is a difference between the amount of anti-dumping duty imposed on the products of the applicant and the amount of actual dumping margin of that product,
- (5) A request and reason, if necessary, why the evidence, etc., submitted should be requested as confidentially treated,
- (6) Any other relevant matters.

3. With regard to the anti-dumping duty in accordance with the provisions of paragraph 1 of Article 8, a person who is intended to request the government to change or eliminate the said anti-dumping duty imposed in accordance with the provision of paragraph 21 of the said Article of the Law (hereinafter in this paragraph referred as "the applicant") shall submit to the Minister of Finance the following information in writing as well as sufficient evidence that there exists the change of the situation as provided for in subparagraphs (1) or (2) of paragraph 20 of the said Article of the Law.

- (1) The name and address of the applicant,
- (2) The descriptions, name, type, model and features of the specified product on which the said anti-dumping duty is imposed,
- (3) Suppliers or supplying country of the specified product on which the said anti-dumping duty is imposed,
- (4) The reason why the applicant is the person provided for in paragraph 21 of Article 8 of the Law,
- (5) The summary as to the change of the situation under subparagraphs 1 or 2 of paragraph 20 of Article 8 of the Law,
- (6) A request and reason, if necessary, why the evidence, etc., submitted should be confidentially treated,
- (7) The degree of support for the applicant as requested in the provisions of paragraph 21 of Article 8 of the Law by interested producers or interested labour unions if the applicant is one of the interested parties for domestic industry provided for in paragraph 1 of Article 5,
- (8) Any other relevant matters.

4. With regard to the period specified in the provisions of paragraph 1 of Article 8 of the Law regarding anti-dumping duty imposed under the provision of the said paragraph, a person who intends to request the government to extend the said period in accordance with the provisions of paragraph 26 of the said Article of the Law, (hereinafter referred to as "the applicant" in this paragraph) shall submit to the Minister of Finance the following information in writing as well as sufficient evidence that the dumped import action of the specified product and the fact of material injury, etc., for domestic industry caused by the said import action would be likely to continue or recur after the termination of the specified period.

- (1) The name and address of the applicant,
- (2) The descriptions, name, type, model and features of the specified product on which the anti-dumping duty is imposed,
- (3) Suppliers or supplying country of the specified product on which the anti-dumping duty is imposed,
- (4) The reason why the applicant is one of the interested parties for domestic industry provided for in paragraph 1 of Article 5,

- (5) The summary as to the fact that the dumped importation of the specified product provided for in paragraph 26 of Article 8 of the Law and the fact of material injury, etc. for domestic industry caused the said importation threaten, to continue or recur after the termination of the specified period,
- (6) A request and reason, if necessary, why the evidence, etc., submitted should be confidential,
- (7) The degree of support for the applicant by the interested producers or interested labour unions as requested in the provision of paragraph 26 of Article 8 of the Law,
- (8) Any other relevant matters.

5. The provisions of paragraph 3 shall be applied *mutatis mutandis* to the cases where undertakings accepted under the former part of paragraph 8 of Article 8 of the Law (including the cases where the said part is applied *mutatis mutandis* under the former part of paragraphs 14, 24, 28 of Article 8 as well as where the provisions of paragraph 24 is applied *mutatis mutandis* under paragraph 31 of the said Article) is requested to be changed in accordance with the provisions of paragraph 21 of the said Article applied *mutatis mutandis* to the provisions of paragraph 31 of the said Article.

6. If the Minister of Finance finds that confidentiality should be warranted to any evidences, etc. among those submitted pursuant to the provisions set out above (hereinafter referred to as "confidential evidence, etc. in this Article), he shall require the submitting person to furnish and submit non-confidential summaries thereof in writing.

7. The person who is required to submit the summaries, etc. under the preceding paragraph shall if he considers the "confidential evidence, etc." as provided for in the proceeding paragraph not susceptible of summaries shall submit to the Minister of Finance a document to that effect with the reason therefore.

8. The Minister of Finance may not investigate such evidence, etc. if the person who is required to submit the summary of confidential evidence, etc. in writing referred in paragraph 6, does not submit the summary in writing a document under the two preceding paragraphs, or if he finds that the submission under the two preceding paragraphs is not warranted.

9. The Minister of Finance shall promptly inform the person who submitted the evidence, etc. to that effect with the reason therefore if he finds the request for confidentiality is not warranted for such evidences, etc. submitted in accordance with the provision of paragraphs 1 to 5 and are required to be confidentially treated. In this case, the Minister of Finance may not investigate that evidence, etc., if the person who submitted the evidence, etc. does not withdraw the request for confidential treatment thereof or submit an appropriate summary in writing.

10. The Minister of Finance shall inform in writing the person who submitted the evidence, etc. pursuant to paragraphs 1 to 5, if he decided, in accordance with the provision of paragraphs 8 and 9, to disregard the evidence, etc. submitted.

[Provisional Translation]

Cabinet Order Relating to Countervailing Duty

(Cabinet Order No. 416, December 1994)

(Definition)

Article 1

For the purpose of this Cabinet Order, "supplier", "supplying country", "specified product" or "reimburse amount" means "supplier", "supplying country", "specified product" and "reimburse amount" as provided in paragraph 1 or 29 of Article 7 of the Customs Tariff Law (hereinafter referred to as "the Law") respectively.

(Domestic Industry)

Article 2

1. The term "domestic industry" as provided for in paragraph 1 of Article 7 of the Law shall be interpreted as referring to domestic producer whose collective output of the like products constitutes a major proportion of the total domestic production of those products.

2. The domestic producers referred to in the preceding paragraph shall not include the producers who have imported such imported product or like products after the date of six months prior to the date when the request under the provisions of paragraphs 5, 18 (including the case where the provisions of this paragraph are applied to paragraph 28) or 23 of Article 7 of the Law has been made, except in the case where the import was in a small amount, nor who has following relation. Unless that related producer submit the evidence that is ground for that the effect for the relationship referred to in following subparagraphs does not cause the producer who has a relation referred to in subparagraphs to behave differently from another producer who have no relations referred to in the following subparagraphs and that such evidence is recognized appropriate.

- (1) a relation to control directly or indirectly the supplier or importer of that product,
- (2) a relation to be controlled directly or indirectly by supplier or importer of that product,
- (3) a relation to be controlled directly or indirectly by a third person who directly or indirectly control supplier or importer of that product, or
- (4) a relation together with supplier or importer of that product to control directly or indirectly a third person.

(Interested Parties for Domestic Industry)

Article 3

1. The term "interested parties for domestic industry" as provided for in paragraphs 5, 18 and 23 of Article 7 of the Law shall be the following:

- (1) a domestic producer of the like products of such imported product or an association thereof, of which a majority of the direct or indirect members are domestic producers of like product of such imported product (hereinafter in following Article and Article 7 referred to as "interested producers, etc.") and whose collective output of the products constitutes not less than one-fourth of the total domestic production of those products, and
- (2) a labour union composed of direct or indirect members who are engaged in production of the like products of such imported product (hereinafter in following Article and Article 7 referred to as the "interested labour union") and the collective number of such members constitutes not less than one-fourth of the total number of persons who are engaged in such production.

2. The producer who shall not be included in the domestic producer under the provisions of paragraph 2 of the preceding Article shall not be included in the domestic producer referred to in subparagraph (1) of the preceding paragraph and the person who is engaged in production of the like products of such imported product by the producer who shall not be included in the domestic producer under the provisions of paragraph 2 of the said Article shall not be included in the member referred to in subparagraph (2) of the preceding paragraph.

(The procedures of Requesting to impose Countervailing Duty, etc.)

Article 4

1. Any person, who is intended to request the government to impose countervailing duty in accordance with the provisions of paragraph 5 of Article 7 of the Law (hereinafter in this paragraph referred to as the "applicant") shall submit to the Minister of Finance a document stating the following matters, together with sufficient evidence as to the fact of importation of subsidized products and the fact of material injury, etc. to domestic industry referred to in paragraph 5 of the said Article.

- (1) The name and address of the applicant,
- (2) The descriptions, name, type, model and features of the products,
- (3) Suppliers or supplying country of the product,
- (4) The fact of being interested parties for domestic industry referred to in paragraph 1 of the preceding Article 3,
- (5) The summary as to the fact of importation of the subsidized products and the fact of material injury, etc. to domestic industry referred to in paragraph 5 of Article 7 of the Law,
- (6) A request for confidential treatment and the reason therefore, when part of matters stated in document or all or part of evidence presented (hereinafter in this Article referred to as "evidence, etc.") is requested as confidential,

- (7) The degree of support by interested producers or interested labour unions for the application under the provisions of paragraph 5 of Article 7 of the Law, and
- (8) Any other relevant matters.

2. Regarding the countervailing duty imposed under the provisions of paragraph 1 of Article 7 of the Law, any supplier, who has not been subject to the investigation and is intended to request the Government to eliminate or modify such countervailing duty imposed in accordance with the provisions of paragraph 1 of Article 7 of the Law (hereinafter in this paragraph referred to as "the applicant") shall present to the Minister of Finance the document stating the following as well as sufficient evidence of the fact that the amount of the countervailing duty imposed on such products regarding the application differs from the amount of actual subsidy on such products;

- (1) The name and address of the applicant,
- (2) The descriptions, name, type, model and features of such specified products regarding the countervailing duty,
- (3) The fact that the applicant is a supplier who has not been subject to the investigation under the provisions of paragraph 13 of Article 7 of the Law,
- (4) A summary of the fact as to the difference between the amount of countervailing duty imposed on such products regarding the application and the amount of actual subsidy on that product,
- (5) A request and reason for confidential treatment if the evidence, etc. submitted is requested as confidential, and
- (6) Any other relevant matters.

3. Regarding a countervailing duty imposed under the provisions of paragraph 1 of Article 7 of the Law, a person who intends to request the government to eliminate or modify the countervailing duty in accordance with the provisions of paragraph 18 of Article 7 of the Law (hereinafter in this paragraph referred to as "the applicant") shall present to the Minister of Finance the document stating the following as well as sufficient evidence of existing the change of the situation referred to in subparagraphs (1) or (2) of paragraph 17 of the said Article of the Law.

- (1) The name and address of the applicant,
- (2) The descriptions, name, type, model and features of the products regarding such countervailing duty,
- (3) Suppliers or supplying country of the specified product regarding such countervailing duty,
- (4) Circumstances under which the provisions of paragraph 18 of Article 7 of the Law is applicable,
- (5) The summary as to the change of the circumstances referred to in subparagraphs (1) or (2) of paragraph 17 of Article 7,

- (6) A request and reason for confidential treatment if the evidence, etc. submitted is requested as confidential,
- (7) The degree of support for the application under the provisions of paragraph 18 of Article 7 of the Law by interested producers, etc. or interested labour unions where the applicant is a person prescribed in paragraph 1 of the preceding Article, and
- (8) Any other relevant matters.

4. Regarding the countervailing duty imposed under the provisions of paragraph 1 of Article 7 of the Law, a person who intends to request to the government to extend imposing period of countervailing duty accordance with the provisions of paragraph 23 of Article 7 of the Law (hereinafter in this paragraph referred to as "the applicant") shall submit to the Minister of Finance the document standing following as well as sufficient evidence as to the fact of subsidized import of specified product referred to in paragraph 23 of the said Article and evidence that substantial injury, etc. or domestic industry by such import would be likely to continue or reoccur after the termination of the designated period.

- (1) The name and address of the applicant,
- (2) The descriptions, name, type, model and features of the specified products regarding such countervailing duty,
- (3) Suppliers or supplying country of the specified products regarding such countervailing duty,
- (4) The fact of being interested parties for domestic industry provided in paragraph 1 of the preceding Article,
- (5) The summary as to the fact of importation of the subsidized specified products and the fact of material injury, etc. to domestic industry would be likely to continue or reoccur after the termination of the specified period,
- (6) A request for confidential treatment and the reason therefore, if the evidence, etc. submitted is requested as confidential,
- (7) The degree of support by interested producers or interested labour unions for the application under the provisions of paragraph 5 of Article 7 of the Law, and
- (8) Any other relevant matters.

5. The provisions of paragraph 3 shall apply *mutatis mutandis* to the case where the undertakings accepted under the provisions of the first sentence of paragraph 9 of Article 7 of the Law (including the cases where this sentence is applied *mutatis mutandis* to the first sentence of paragraphs 15, 21 and 25 of said Article as well as the cases where the provisions of paragraph 21 of said Article are applied *mutatis mutandis* to paragraph 28 of the said Article) are changed in accordance with the provisions of paragraph 18 of Article 7 applied *mutatis mutandis* to the provisions of paragraph 28 of Article 7.

6. The Minister of Finance, when he finds that confidentiality is warranted regarding the evidences, etc. submitted under the provisions of the preceding paragraph (hereinafter in this Article referred to

as the "confidential evidence, etc.") shall require the person who provided that evidence, etc. to submit a non-confidential summary of such confidential evidence, etc.

7. The person who is required to submit a summary, etc. in writing in accordance with the preceding paragraph, if he considers that he is not able to make such summary of the confidential evidences, etc. under the provisions of the said paragraph, shall submit to the Minister of Finance a document stating to that effect and reason for that.

8. The Minister of Finance may not investigate such confidential evidence, etc. when the person who is required to submit a summary of confidential evidence, etc. under the provisions of paragraph 6 does not submit the document under the provisions of paragraphs 6 and 7, or when the Minister finds that the contents of the document which has been submitted under the provisions of paragraphs 6 and 7 are not appropriate.

9. The Minister of Finance shall, when he finds it inappropriate to treat that evidences, etc. as confidential which are requested to be treated as such by the person who has submitted evidences under the provisions of paragraphs 1 to 5, promptly notify the person to that effect and reasons for that. In that event, the Minister of Finance may not investigate those evidences, etc. unless the person who has submitted such evidences, etc. withdraws the request for confidential treatment or submits an appropriate summary in writing.

10. The Minister of Finance shall, when he decides under the provisions of paragraphs 8 and 9, not to investigate the evidence, etc. submitted in accordance with the provisions of paragraphs 1 to 5, notify the person who submitted the confidential evidences, etc. the effect and the reasons in writing.

(Notice of the Initiation of Investigation)

Article 5

1. The Minister of Finance shall, if an investigation referred to in paragraphs 6, 14, 19 (including the cases where this paragraph is applied to in paragraph 28) or 24 of Article 7 of the Law (hereinafter referred to as "investigation" in the Law, except in Article 11, paragraph 1 of Article 13 other than provisions of subparagraphs thereof and Article 15) is initiated, promptly notify to that effect and following in writing the directly interested person (hereinafter in this Article, interpreted as referring to a supplier of that product under the investigation or association thereof (the majority of direct or indirect members of which are suppliers of that product), and, importers of that product under the investigation or an association thereof (the majority of direct or indirect members of which are suppliers of that product), as well as the applicant of such investigation (who made a request referred to paragraphs 5, 13, 18 (including the case where it is applied to in paragraph 28) of Article 7 of the Law) some as follows) shall publish a notice in the Official Gazette.

- (1) The name and address of applicant,
- (2) The descriptions, name, type, model and features of the products subject to the investigation,
- (3) Suppliers or supplying countries of the products subject to the investigation,
- (4) The date of initiation of the investigation,

- (5) The period of time for investigation,
- (6) The summary of the matters subject to the investigation,
- (7) The time-limits for presenting the evidence in writing or orally referred to in paragraph 1 of Article 7, to see evidences, etc. referred to in paragraph 1 of Article 10, respectively, and
- (8) Any other relevant matters.

2. The Minister of Finance shall, when he informs the directly interested persons other than the applicant in accordance with the provisions above, send the documents and evidences (other than those deemed to be warranted confidential treatment by their nature or to be submitted as confidential by the applicant) submitted in accordance with the provisions of paragraphs 1 to 5 of Article 4 in addition to the document referred to in the preceding paragraph.

3. The Minister of Finance shall, when the request is made in accordance with the provision of paragraphs 5, 13, 18 (including the case where it is applied to paragraph 28) of Article 7 of the Law and the investigation is decided not to be initiated, promptly inform the applicant that effect with reasons in writing.

(Extension of the period of Investigation)

Article 6

The Minister of Finance shall, if the extension of the period of investigation is to be decided in accordance with the provisions of the proviso to paragraph 7 of Article 7 of the Law (including the cases where those provisions are applied *mutatis mutandis* to the first sentence of paragraph 15 of Article 7) or of the proviso to paragraph 20 (including the case where those provisions are applied *mutatis mutandis* to paragraphs 25 and 28), promptly notify in writing the directly interested parties and publish a notice in the Official Gazette of the extended period of investigation and reasons for such extension.

(Presentation of Evidence)

Article 7

1. When the investigation is initiated, the interested parties (hereinafter interpreted as referring to a directly interested party as well as other interested producer, etc. and interested labour unions the majority of direct or indirect members of which are engaged in production of the like products) may present the evidence to or testify before the Minister of Finance on the facts referred to in paragraphs 6 or 14 of Article 7 of the Law, the change of situation referred to in paragraph 19 of the said Article (including the cases where paragraph 28 is applied to) or threat referred to in paragraph 24 of said Article, until the time-limit notified or specified in the notice in accordance with paragraph 1 of Article 5 and referred to in paragraph 7 of Article 5. In this case the person who is to present evidence or to testify, shall submit to the Minister of Finance a document as to the fact identified by such an evidence or testimony and, in the case where confidential treatment is requested, as to that effect and the reason for that request.

2. The Minister of Finance may, if deemed to be necessary in the course of investigation, request interested parties to present evidence or testify on the fact referred to in paragraphs 6 or 14 of Article 7

of the Law, the change of situation referred to in paragraph 19 of the said Article (including the cases where those provisions are applied *mutatis mutandis* to paragraph 28) or threat referred to in paragraph 24 of the said Article. In this case, any person who is to present evidence or to testify and to request the confidential treatment shall present a document as to the fact identified by such evidence or testimony, in the case where confidential treatment is requested as to that effect and the reason for that request.

3. The Minister of Finance shall, when any request to testify is made by the interested parties in accordance with the provisions of the first sentence of paragraph 1 or when he requests the interested parties to testify in accordance with the provisions of the first sentence of the preceding paragraph, notify in writing such interested parties of the date and time, place and other necessary matters to be testified.

4. The provisions of paragraphs 6 to 10 of Article 4 shall apply *mutatis mutandis* to evidence or testimony in accordance with the provisions of the first sentence of paragraph 1 or the first sentence of paragraph 2.

(Evidence, etc. to be seen)

Article 8

1. When the investigation is initiated, the Minister of Finance shall, until the time-limit notified or specified in the notice referred to in subparagraph (7) of paragraph 5 of Article 1 in accordance with the provisions of said paragraph, provide opportunities for the interested parties to see all evidences under the provisions of the proviso to paragraph 2 of Article 2; all documents or evidences presented under the provisions of paragraphs 1 to 5 of Article 4, all evidences or documents which records testimony provided under the provisions of the first sentence of paragraph 1 or the first sentence of paragraph 2 of the preceding Article and other evidence (excluding evidence and documents which have been by nature warranted to be treated as confidential, documents and evidence presented by interested parties to be treated as confidential as well as documents which record testimony provided as confidential) or documents presented under the provisions of paragraphs 6, 7 and the second sentence of paragraph 9 of Article 4 (including the cases when those provisions are applied *mutatis mutandis* to paragraph 4 of the preceding Article) (hereinafter in the next paragraph referred to as "evidence, etc.")

2. The person, who is to see the evidence, etc. under the provisions of the preceding paragraph, shall present to the Minister of Finance a document which contains a list of evidences, etc. he wishes to see and the grounds on which he is entitled to be one of the interested parties.

(Presentation of View)

Article 9

1. When the investigation is initiated, any interested party, industrial user of the products under the investigation or any representative-consumer organization of such products may, until the time-limit referred to in subparagraph (7) of paragraph 1 of Article 5 notified to or published in notice in accordance with the provisions of said paragraph, present to the Minister of Finance the document which contains its view on that investigation. However, representative consumer-organizations may present their view, only in cases where the products are commonly sold retail.

2. The Minister of Finance may, if necessary, in the course of investigation, request interested parties, industrial users of such products under investigation or representative consumer-organizations of such product to present their view in writing which are relevant to the investigation.

(Presentation of Information by Industrial User and Consumer-Organizations)

Article 10

1. When the investigation is initiated, any industrial users of products under investigation or the representative consumer-organizations of such products may, until the time-limit referred to in subparagraph 7 of paragraph 1 of Article 5 notified to or specified in the notice in accordance with the provisions of said paragraph, present to the Minister of Finance information in writing which is relevant to the investigation. However representative consumer-organizations only may present information, in case the product is commonly sold at the retail level.

2. The Minister of Finance may, if necessary, in the course of the investigation, request industrial users of products under the investigation or representative consumer organizations of such products to provide information which is relevant to the investigation.

(Offer of Undertaking)

Article 11

1. When the authorities of a supplying country or the exporter of the products under investigation under the provisions of paragraphs 6, 14, 19 (including the cases where these paragraphs are applied *mutatis mutandis* to in paragraph 28) or 24 of Article 7 of the Law is to offer, in accordance with the provisions of paragraph 8 of Article 7 of the Law (including the cases where the provisions of those paragraphs are applied *mutatis mutandis* to the first sentence of paragraphs 15, 21 and 25 of said Article, and where the provisions of paragraph 21 of said Article is applied *mutatis mutandis* to paragraph 28 of said Article, same as in Article 14), to the Government such undertaking as provided for in the said paragraphs, either of them shall present to the Minister of Finance a document which contains to that effect and the details of the undertaking to be offered and, if the authorities of the exporting country desire that the investigation referred to in paragraph 6 of Article 7 of the Law should be completed, which contains to that effect.

2. As soon as an undertaking under the provisions of the preceding paragraph has been accepted under the provisions of the first sentence of paragraph 9 of Article 7 of the Law (including the case where the provisions of this paragraph is applied *mutatis mutandis* to the first sentence of paragraphs 15, 21 and 25 of said Article, and where the provisions of paragraph 21 of said Article is applied *mutatis mutandis* to paragraph 28 of said Article, same as in paragraph 5), the Minister of Finance shall notify in writing directly interested parties to that effect and the details of undertaking (excluding the part which is by nature warranted confidential and the part which is presented as confidential information by the authorities supplying country or the exporter who offered that undertaking), and, in the case where the termination, the investigation under the provisions of paragraph 6 of said Article is decided, to that effect, the reason for and date of the termination, or, in the case where the continuation of the investigation is so decided, to that effect, and shall publish a notice in the Official Gazette.

3. When an investigation as provided for in paragraph 8 of Article 7 of the Law has been completed after an acceptance, under the provisions of the first sentence of paragraph 9 of the said Article, of an undertaking offered by the authorities of supplying country or the exporter of the product subject to investigation under paragraph 8 of the said Article and if the Government has made a finding in respect of the importation of the product concerned that there exists the fact under the provisions of paragraph 6 of said Article, the undertaking accepted under the provisions of the first sentence of paragraph 9 of Article 7 of the Law shall not lapse, whereas such undertaking shall lapse if a finding

has been made by the Government that there does not exist such the fact. However, the undertaking shall not lapse in cases where such finding has been made in large part taking account of the existence of such undertaking.

4. As soon as a finding referred to in the preceding paragraph has been made, the Minister of Finance shall notify in writing the directly interested parties of the fact that an undertaking accepted under the provisions of the first sentence of paragraph 9 of Article 7 of the Law shall not lapse or shall lapse and of the reasons for the fact and shall publish a notice in the Official Gazette.

5. The Minister of Finance shall, when the undertaking lapse in accordance with the provisions of paragraph 3 or when the undertaking accepted under the provisions of paragraph 9 of Article 7 terminates, promptly notify in writing directly interested parties to that effect and of reasons therefrom and shall publish a notice in the Official Gazette.

(Notification before the Final Determination)

Article 12

The Minister of Finance shall, before the final determination impose countervailing duty under the provisions of paragraph 1 of Article 7 of the Law, or to remove or vary (including to vary the specified period under the provisions of the said paragraph) the countervailing duty, notify in writing interested parties of the important fact on which the determination is based on in good time.

(Notification of imposing Countervailing Duty)

Article 13

1. The Minister of Finance shall, when it is decided to impose countervailing duty under the provisions of paragraph 1 of Article 7 of the Law to vary (including to vary the specified period under the provisions of said paragraph) or remove countervailing duty under the provisions of the said paragraph or to take measures under the provisions of paragraph 10 of the said Article is or when the specified period under the provisions of paragraph 10 of the said Article is terminated (other than in the case where investigation under the provisions of paragraph 24 of the said Article is carried out, hereinafter same as in this paragraph), promptly notify to that effect and of following information in writing directly interested parties and shall publish a notice in the Official Gazette.

- (1) The description, type, model and features of products specified under the provisions of paragraph 1 or 10 of Article 7 of the Law,
- (2) The suppliers or supplying countries specified under the provisions of paragraphs 1 or 10 of Article 7 of the Law,
- (3) The specified period under the provisions of paragraph 1 or 10 of Article 7 of the Law, and the date to be removed if countervailing duty is to be removed under the provisions of paragraph 1 of the said Article,
- (4) The fact identified by investigations and conclusions obtained therefrom other than in the case where the specified period under the provisions of paragraph 1 of Article 7 of the Law expires,

- (5) The products and reason of determination when it is determined to impose countervailing duty under the provisions of paragraph 3 of Article 7 of the Law imposing countervailing duty under the provisions of paragraph 1 of the said Article,
- (6) Any other relevant matters.

2. The Minister of Finance shall, when decided as a result of the investigation, that the countervailing duty under the provisions of paragraph 1 of Article 7 of the Law is not to be imposed, that the countervailing duties imposed under the provisions of the said paragraph is not to be varied (including the specified period of time under the provisions of the said paragraph), notify in writing direct interested parties to that effect and of following information and shall publish notice in the Official Gazette.

- (1) The description, type, model and features of products under the investigation,
- (2) The suppliers or supplying countries of products under the investigation,
- (3) The facts identified by investigation and the conclusions obtained therefrom,
- (4) Any other relevant matters.

3. The provisions of the preceding paragraph shall be applied *mutatis mutandis* to the case where the terminations of an investigation determined, excluding the case where the termination of an investigation is determined under the provisions of the second sentence of paragraph 9 of Article 7 of the Law. In this case, the provision "the fact identified by investigation and the conclusions obtained therefrom" of the preceding paragraph shall read "the fact identified by investigation before termination and the reason for terminating investigation".

(Consultation relating to the Investigation)

Article 14

The Minister of Finance, any Minister who has jurisdiction over the industry in Japan as provided for in paragraph 1 of Article 7 of the Law (hereinafter referred to as "the Minister having jurisdiction over the industry") and the Minister of International Trade and Industry shall, if they deem necessary to initiate an investigation, communicate to each other to that effect. In this case, the Minister of Finance, the Minister having jurisdiction over the industry and the Minister of International Trade and Industry shall always keep close contact with each other on the investigation (including ways to deal with the results of investigation) and on the undertaking offered under the provisions of paragraph 8 of Article 7 of the Law, (including a transmission of a copy of the documents submitted under the provisions of paragraphs 1 to 5 of Article 4 and paragraph 1 of Article 11 by the Minister of Finance to the Minister having jurisdiction over the industry and the Minister of International Trade and Industry) and make a determination after consultations among them regarding any important aspects of those matters referred to above.

(Refund)

Article 15

1. An importer, who intends to request reimbursement of the countervailing duty levied on the specified product in accordance with the provisions of paragraph 29 of Article 7 of the Law, shall submit to the Director-General of Customs who has jurisdiction over the area where the specified products have been imported a request in writing for reimbursement stating the amount of the countervailing duty to be reimbursed and calculation basis for that amount together with the sufficient evidence of the existence of amount to be reimbursed. In this case, the Director-General of Customs shall transmit a copy of the written request and the evidence submitted to the Minister of Finance.

2. The provisions of the preceding paragraph shall be applied *mutatis mutandis* to the case where investigation under the provisions of paragraph 30 of Article of the Law is initiated.

3. The Minister of Finance shall, when the extension of the period of investigation referred to in paragraph 30 of Article 7 is decided under the provisions of the proviso of paragraph 31 of the said Article, promptly notify in writing the rter who made request under the provision of paragraph 29 of Article 7 of the Law to that effect and of the extended period for investigation and the reason for extension.

4. The Minister of Finance shall, after the investigation under paragraph 30 of Article 7 of the Law is completed, notify the Director-General of Customs of the result, and the Director-General of customs shall, based on that notification, promptly reimburse the countervailing duty within the limit of the requested amount or inform in writing the importer who made the request that there is no reason to request reimbursement.

(Referral, etc. to the Customs Tariff Council)

Article 16

The Minister of Finance shall, when it is deemed necessary as a result of an investigation, to impose countervailing duty under the provisions of paragraph 1 of Article 7 of the Law, to vary or remove countervailing duty under the provisions of said paragraph or to take measures under the provisions of paragraph 10 of the said Article, promptly refer to the matter to the Customs Tariff Council.

Supplementary Provisions

This Cabinet Order shall enter into force on the date on which the Law amends the part of the Customs Tariff Law, etc. enter into force (1 January 1995).