

# WORLD TRADE ORGANIZATION

**G/ADP/N/1/JPN/2/Corr.1\***

**G/SCM/N/1/JPN/2/Corr.1\***

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**Committee on Anti-Dumping Practices**

Original: English

**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 14 July 1995, has been received from the Permanent Mission of Japan.

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The following pages should be inserted between pages 46 and 47 of document G/ADP/N/1/JPN/2-G/SCM/N/1/JPN/2.

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\* English only

(Notice of the Initiation of Investigation)

Article 8

1. The Minister of Finance shall, when an investigation under paragraphs 5, 13 and 22 (including the cases where the said paragraphs shall apply *mutatis mutandis* to the provision of paragraph 31) or 27 of Article 8 of the Law (hereinafter referred to as "investigation" except in Article 14, paragraph 1 of Article 16 (other than the provisions of sub-paragraphs thereof Article 17 and Article 19 is decided to be initiated, promptly provide the following information in writing to the directly interested person (supplier of the product subject to such investigation or association thereof) a majority of the direct or indirect members of which would be supplier of the product subject to the investigation), importer of the product subject to the investigation or association thereof (a majority of the direct or indirect members of which must be importer of the product subject to such investigation), as well as applicant regarding such investigation (who made a request under paragraphs 4, 12, 21 of Article 8 of the Law (including the cases where the provision of the said paragraph is applied to paragraph 31 of the said Article) or 26 of the Article 8), hereinafter in this paragraph referred to as the same) and shall give a public notice in the Official Gazette.

- (1) The name and address of such applicant.
- (2) The descriptions, name, type, model and features of the product subject to the investigation.
- (3) Suppliers or supplying country of the product subject to the investigation.
- (4) The date on which the investigation is initiated.
- (5) Duration of investigation.
- (6) A description of the subject to be investigated.
- (7) The term of the submission of evidence and witness referred to in the former provision of paragraph 1 of Article 10, reference of the evidences, etc. referred to in paragraph of Article 11 and application under paragraphs of Article 12, respectively.
- (8) Any other relevant matters.

2. The Minister of Finance shall, when informing the directly interested persons in accordance with the preceding paragraph, send in addition, writing and evidence (other than those parts found to be warranted to be confidential treated by nature or those parts presented as confidential information by applicant) to be presented in accordance with the provisions of paragraphs 1 to 5 of the preceding Article 9 to the directly interested person other than the applicant.

3. The Minister of Finance shall promptly inform, with the reason therefore, the applicant to that effect in writing, when the request is made in accordance with the provisions of paragraphs 4, 12, 21 (including the case where the provision of the said paragraph shall apply *mutatis mutandis* in paragraph 31 of the said Article) or 26 of Article 8 of the Law and accordingly the investigation is decided not to be initiated.

(Extension of the Period of Investigation)

#### Article 9

. The Minister of Finance shall, if the period of investigation is decided to be extended in accordance with the proviso of paragraph 6 of Article 8 of the Law (including the case where the provision of the said paragraph is applied *mutatis mutandis* to the first sentence of paragraph 14 of the said Article) or with the proviso of paragraph 23 (including the case where the said paragraph shall apply *mutatis mutandis* to paragraphs 28 and 31 of the Article), promptly inform the directly interested parties to that effect in writing and of the extended period of investigation and reasons for the extension and shall give a public notice in the Official Gazette.

(Presentation of Evidences, etc.)

#### Article 10

1. Where the investigation is initiated, the interested parties (the directly interested parties as well as interested producers, etc., and interested labour union (the majority of direct or indirect members of which must be engaged in domestic production of the like product of the imported product) other than directly interested parties hereinafter referred to as the same) may present to the Minister of Finance any evidence in writing or orally with regard to the fact referred to in paragraphs 5 or 13 of Article 8 of the Law, the change of situation under paragraph 22 of the said Article (including the case where the provision for the said paragraph shall apply *mutatis mutandis* in paragraph 31) or threat under paragraph 27 of said Article, within the term under paragraph 1 of Article 8 informed or made known to the public in accordance with paragraph 1 of the said Article. In this case, any person who is intended to submit evidences in writing or orally present them, shall submit a writing as to the fact to be identified by such evidence and a request for confidential treatment, if necessary, of such evidences with the reason therefore.

2. The Minister of Finance may, as it is found necessary during investigation, request the interested parties to present the evidence in writing or orally with regard to the fact under paragraphs 5 or 13 of Article 8 of the Law, the change of situation referred to in paragraph 22 of the said Article (including the cases where the provision of the said paragraph shall apply *mutatis mutandis* in paragraph 31 of the said Article) or threat under paragraph 27 of the said Article. In this case, any person who is intended to present evidences in writing or orally, shall submit a request for confidential treatment, if necessary, of such evidences with the reason therefore.

3. The Minister of Finance shall, where a request to present evidences orally is made by interested parties in accordance with the provision of the first sentence of paragraph 1 or he requests interested parties to present evidence orally in accordance with the provision of the first sentence of the preceding paragraph, shall inform in writing such interested parties of the date and time, place and other necessary matters for presenting evidence.

4. The provision of paragraphs 6 to 10 of Article 7 shall apply *mutatis mutandis* to evidence in writing or orally presented in accordance with the provision of the first sentence of paragraph 1 or the first sentence of paragraph 2.

(Evidence, etc. to be Seen)

#### Article 11

1. In case the investigation was initiated, the Minister of Finance shall, by the time-limit noticed under sub-paragraph 7 of paragraph 1 of Article 8 or made known to the public in accordance with

the provision of paragraph 1 of Article 8, provide opportunities for interested parties to see any evidence submitted under the provision of the proviso of paragraph 2 of Article 4, writing or evidence presented under the provisions of paragraphs 1 to 5 of Article 7, evidences or the document which records evidences presented orally under the provision of first sentence of paragraph 1 or the first sentence of paragraph 2 of the preceding Article and other evidences (excluding the evidence and document which are by nature warranted to be treated as confidential, the document and the evidence presented by interested parties to be treated as confidential information as well as documents which records evidences orally presented as confidential by interested parties) or documents presented under the provisions of paragraphs 6, 7 or the second sentence of paragraph 9 of Article 7 (including the case where those provisions are applied *mutatis mutandis* in paragraph 4 of the preceding Article) (hereinafter in the following paragraph referred to as "evidence, etc.").

2. The person, who is intended to see evidence, etc. under the provisions of the preceding paragraph, shall submit to the Minister of Finance a written information stating the headings of evidences, etc. to be seen and the reasons why the person is one of the interested parties.

(Meeting with parties with adverse interests)

#### Article 12

1. In case the investigation was initiated, the interested parties, who are intended to meet the interested parties with opposing views with regard to the matters regarding such investigation may, by the time-limit as provided for in sub-paragraph 7 of paragraph 1 of Article 8 noticed or made known to the public in accordance with the provision of paragraph 1 of the said Article, present to the Minister of Finance in writing the reasons why he is one of the interested parties, name and address of the opposite party, and facts to be identified in the meeting.

2. The Minister of Finance shall, with a consent of the interested parties with opposing views, give opportunity to hold such a meeting and give an advance notice in writing to the parties concerned of the name and address of the parties concerned, the fact to be identified by the meeting, and the date, place, and other relevant matters for such meeting.

3. The parties concerned with the meeting who has been noticed under the preceding paragraph and as many copies of the meeting as the number of the opposite party the views to be presented at the meeting with regard to the noticed matters to be identified by meeting shall submit in writing to the Minister of Finance. In this case, the Minister of Finance shall promptly send such copies of the writing to the opposite parties no less than 10 days before the date of such meeting.

(Provision of Information by Industrial User and Consumer Organization)

#### Article 13

1. Where the investigation is initiated, any industrial users of the products subject to such investigation or the representative consumer organizations of such products may, by the time-limit provided for sub-paragraph 7 of paragraph 1 of Article 8 noticed or made known to the public in accordance with the provisions of the said paragraph, provide the Minister of Finance in writing with relevant information with regard to the matters subject to the investigation. However, representative consumer organizations may present information only in the cases where the product concerned is commonly sold at the retail level.

2. The Minister of Finance may, in the course of the investigation, if necessary, request industrial users of the products subject to the investigation or representative consumer organizations of such products to provide relevant information in writing with regard to the matters subject to the investigation.

(Offer of Undertaking, etc.)

#### Article 14

1. When the exporter of the products subject to investigation under provisions of paragraphs 5, 13, 22 (including the case where the provisions of this paragraph applies *mutatis mutandis* to paragraph 31) or 27 of Article 8 of the Law is intended to offer to the Government undertaking in accordance with the provisions of paragraph 8 of Article 7 of the Law (including the cases where the provisions of this paragraph applies *mutatis mutandis* to the first sentence of paragraph 14, paragraph 24 and paragraph 28 of the said Article, and where the provisions of paragraph 24 of the said Article applies *mutatis mutandis* to paragraph 31 of the said Article. Hereinafter in Article 18 referred to as the same), the exporters shall submit to the Minister of Finance a document stating to that effect and a request, if necessary, that the investigation under paragraph 5 of Article 8 of the Law should be completed.

2. When an undertaking under the provisions of the preceding paragraph has been accepted under the provisions of the first sentence of paragraph 8 of Article 8 of the Law (including the cases where the provisions of this paragraph applies *mutatis mutandis* to the first sentence of paragraphs 14, 24 and 28 of the said Article, and where the provisions of paragraph 24 of the said Article applies *mutatis mutandis* to paragraph 31 of the said Article (hereinafter in Article 5 referred to as the same), the Minister of Finance shall promptly notice the directly interested parties in writing, and shall make it known to the public in the Official Gazette to that effect, the content of undertaking (excluding the part which is by nature warranted to be treated as confidential and is presented as confidential information by the exporter who has offered such undertaking) and the reasons for and the date of suspension of the investigation under the provisions of paragraph 5 of said Article when it is so decided, or continuation of the investigation when it is so decided.

3. Where an investigation under paragraph 7 of Article 8 of the Law has been completed after an acceptance under the provisions of the first sentence of paragraph 8 of the said Article, of undertakings offered by the exporter of the products subject to investigation under paragraph 5 of the said Article and when the Government has made an affirmative finding regarding the existence of the fact provided for in the provisions of paragraph 5 of the said Article, with regard to the importation of the products concerned, the undertakings accepted under the provisions of the first sentence of paragraph 8 of the said Article shall not lapse, whereas a negative finding has been made by the Government regarding the existence of such fact, such undertaking shall lapse. However, the undertakings shall not lapse in the cases where the negative finding has been made due in large part to taking account of the existence of such undertaking.

4. The Minister of Finance shall, when a finding under the preceding paragraph has been made, promptly notify in writing the directly interested parties of the fact that an undertaking accepted under the provisions of the first sentence of paragraph 8 of Article 8 of the Law shall not lapse or has lapsed with the reasons thereof and shall make it known to the public in the Official Gazette.

5. The Minister of Finance shall, when the undertaking has lapsed in accordance with the provisions of paragraph 3 or when the undertaking accepted under the provisions of paragraph 8 of Article 8 has become invalid, promptly notify in writing directly interested parties of that effect with the reasons thereof and shall make it known to the public in the Official Gazette.

(Notification of important facts before the Final Determination)

#### Article 15

The Minister of Finance shall, sufficiently before the final determination to impose anti-dumping duty under the provisions of paragraph 1 of Article 8 of the Law, or to modify or terminate (including to modify the specified period under the provisions of the said paragraph) the anti-dumping duty, notify in writing the directly interested parties of the important facts on which the determination is based.

(Notification on imposition of anti-dumping duty)

#### Article 16

The Minister of Finance shall, when it has been decided to impose an anti-dumping duty under the provisions of paragraph 1 of Article 8 of the Law, to modify (including to vary the specified period under the provisions of the said paragraph) or terminate anti-dumping duty under the provisions of the said paragraph or to take measures under the provisions of paragraph 9 of the said Article or when the specified period under the provisions of paragraph 1 of the said Article has expired (except the case that the investigation under the provisions of paragraph 27 of the said Article is conducted, hereinafter the same in this paragraph), promptly notify in writing the directly interested parties of that effect and the following information and shall make it known to the public in the Official Gazette.

(1) The description, type, model and features of products specified under the provisions of paragraph 1 or paragraph 9 of Article 8 of the Law.

(2) The supplier or supplying country specified under the provisions of paragraph 1 or paragraph 9 of Article 8 of the Law.

(3) The specified period under the provisions of paragraph 1 or paragraph 9 of Article 8 of the Law, including, if necessary, the date on which the anti-dumping duty is to be terminated under the provisions of paragraph 1 of the said Article.

(4) The fact identified by investigations and conclusions obtained therefrom (other than the case that the specified period under the provision of the paragraph of Article 8 of the Law has expired).

(5) The products concerned and reason for determination when it is determined to impose an anti-dumping duty under the provision of paragraph 1 of the said Article.

(6) Any other relevant matters.

2. The Minister of Finance shall, when it has been determined as the result of the investigation that an anti-dumping duty under the provision of paragraph 1 of Article 8 of the Law is not to be imposed, that anti-dumping duties imposed under the provision of the said paragraph is not to be modified or terminated (including the modification of the specified period under the provision of the said paragraph) notify in writing the directly interested parties of the following information and shall make it known to the public in the Official Gazette.

(1) The description, type, model and features of the products subject to the investigation.

(2) the supplier or supplying country of the products subject to the investigation.

- (3) The fact identified by investigation and the conclusions obtained thereof.
- (4) Any other relevant matters.

3. The provisions of the preceding paragraph shall be applied *mutatis mutandis* in the case that an investigation was determined to be suspended (except the case that an investigation is determined to be suspended under the provisions of the second sentence of paragraph 8 of Article 8 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 until suspending the investigation and the reason for suspending investigation."

(Period of provisional measure)

#### Article 17

The period "as may be prescribed in Cabinet Order" under paragraph 9 of Article 8 shall be within four months. However, in the cases enumerated in any of the following subparagraphs, it shall be within six months, in the cases enumerated in every following subparagraphs, it shall be within nine months.

1. It is expressed that the Government examines the possibility of imposing anti-dumping duty less than the dumping margin.

(2) Where the exporter of such product (the product regarding such exporter shall account for a more than substantial ratio of such product. Hereinafter the same in the following paragraph.) to whom the measure under the provision of paragraph 9 of Article 8 (hereinafter referred to as "provisional measure") is applied, requests in advance to extend the period of provisional measure to exceeding four months.

2. The exporter of the imported product subject to investigation under paragraph 5 of Article 8 of the Law, when requesting to extend the period of provisional measure regarding such product to exceeding four months, shall submit to the Minister of Finance in writing description of the effect and the reasons thereof, prior to the date no later than 60 days from the initiation of investigations under the said paragraph.

(Consultation relating to the Investigation)

#### Article 18

The Minister of Finance, any Minister who has jurisdiction over the industry in Japan under paragraph 1 of Article 8 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 always keep a close contact (including a transmission by the Minister of Finance of a copy of the written information submitted under the provisions of paragraphs 1 to 5 of Article 7 and paragraph 1 of Articles 14 to the Minister having jurisdiction over the industry and the Minister of International Trade and Industry) with each other with regard to the investigation (including treatment of the results of investigation) and the undertaking offered under the provisions of paragraph 7 of Article 8 of the Law and make a determination, after consultations among them regarding any important aspects of those matters referred to above.

(Refund)

#### Article 19

An importer, who intends to request refund from the paid anti-dumping duty regarding the specified product under the provision of paragraph 32 of Article 8 of the Law, shall submit in writing to the Director-General of Customs who has jurisdiction over the imported area of the specified product request for refund stating the amount of anti-dumping duty to be refunded and calculation basis for that amount together with sufficient evidence of the existence of amount to be refunded. In this case, the Director-General of Customs shall transmit a copy of the written request and the evidences submitted to the Minister of Finance.

2. The provisions of the preceding paragraph shall be applied *mutatis mutandis* to the case that investigation under the provision of paragraph 33 of Article 8 of the Law is initiated.

3. The Minister of Finance shall when it is decided to be extended the period of investigation under paragraph 33 of the Article 8 subject to the provision of paragraph 34 of the said Article, promptly notify in writing the importer who made request under the provision of paragraph 32 of Article 8 of the Law of the effect, the extended period of investigation and the reason for the extension.

4. The Minister of Finance shall, after the investigation under paragraph 33 of the Article 8 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 anti-dumping duty within the limit of the refused amount or inform in writing the importer who made the request that there is no reason to request refund.

(Referral to the Customs Tariff Council)

#### Article 20

The Minister of Finance shall, if it deems as a result of investigation it is necessary to impose an anti-dumping duty under the provisions of the said paragraph or to take provisional measures, promptly refer the matter to the Customs Tariff Council.

#### Supplementary provisions

This Cabinet Order shall enter into force on the date on which the Law amending the part of the Customs Tariff Law, etc. enters into force.