Content

Title：	The Regulations Governing the Implementation of the Imposition of Countervailing and Anti-Dumping Duties Ch
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Legislative：	1.Promulgated on Jul. 3,1984 2.Amended on Nov. 17,1994 3.Amended on Dec. 19,2001 4.Amended on Feb. 23,2005 5.Amended on Feb. 2,2016 6.Amended on Jan. 28,2019
Content：	Article 1 The Regulations herein are prescribed pursuant to paragraph 4 of Article 69 of the Customs Act (hereinafter referred to as the Act). Article 2 The imposition of a countervailing duty and anti-dumping duty shall be approved, pursuant to the relevant acts and regulations, and publicized for implementation following the investigation and determination by the Ministry of Finance (hereinafter referred to as the MOF) as initiated ex officio, by an application, or by the referral of other government agencies. Article 3 With respect to a case of the imposition of a countervailing duty or anti-dumping duty (hereinafter referred to as the case), the authority responsible for investigating whether the imported product is subsidized or dumped shall be the MOF; whereas, the authority responsible for investigating whether the subsidized or dumped imported products cause injury to the domestic industry shall be the Ministry of Economic Affairs (hereinafter referred to as the MOEA). The aforesaid investigation for which the MOEA is responsible shall be conducted by its International Trade Commission (hereinafter referred to as the ITC). Article 4 The countervailing duty and anti-dumping duty shall be paid by the duty-payer as prescribed in Article 6 of the Act. Article 5 For the purpose of the Regulations, the term “like product” shall be interpreted to mean a product which is identical to, or composed of the same materials and is of the same characteristics or features as the imported subject product; and, although different in appearance or packaging, a product having the same material composition, characteristics and features as the subject product shall be considered as a like product.

For the purpose of the Regulations, the term “domestic industry” shall be interpreted to mean all the domestic producers of the like products, or domestic producers whose collective output of the like products constitutes a major proportion of the total domestic production. However, producers who are related to domestic importers, or are foreign exporters, or are themselves importers of the subject product, may not be included in the domestic industry.

For the purpose of the preceding paragraph, producers shall be deemed to be related to domestic importers or foreign exporters only if legally or operationally, one of them directly or indirectly controls the other, or together they directly or indirectly control a third person, or both of them are directly or indirectly controlled by a third person, and under the consideration that the effect of the relationship is to cause the producer concerned to behave differently from non-related producers.

Article 6

The producers of a domestic like product or related commercial, industrial, labor, agricultural associations or other legal organizations, may apply for the imposition of a countervailing duty or anti-dumping duty against the imported product on behalf of the industry of the like product in so far as they are legally established and can identify their representative of the industry.

The aforesaid “representative of the industry” shall be determined by referring to the total production of the like product within the most recent year of the application. The application shall be supported by those domestic producers whose collective output constitutes more than 50 percent of the total production of the like product produced by the portion of the domestic industry expressing either support for or opposition to the application; and the production of the domestic producers expressing support for the application shall account for more than 25 percent of the total production of the like product produced by the domestic industry.

Article 7

An applicant applying for the imposition of a countervailing duty or anti-dumping duty on imported products shall file a written application containing the following items together with sufficient materials as required under paragraph 1 of Article 20 with the MOF.

1. Information about the imported subject product:

(1) the description, quality, specification, use, tariff number or import and export commodity classification code, and other characteristics;

(2) the names of the country or countries of export or origin, and any known foreign producers, exporters and domestic importers.

2. Information about the qualifications of the applicant:

(1) the identity of the applicant, and of the producers of the domestic like product expressing support for or opposition to the application, with information of their annual production for the year prior to application, and documents supporting its

qualification to represent the industry.

(2) The name, quality, specifications, uses, tariff number or import and export commodity classification code, and other characteristics of the like product.

3. Information about the subsidy or dumping of the subject product:

(1) the applicant applying for the imposition of a countervailing duty on the imported product shall state that a financial contribution or other form of subsidy has been directly or indirectly received during the course of manufacture, production, sales, and transportation process in the country of export or origin;

(2) the applicant applying for the anti-dumping duty on the imported product shall state the facts supporting the dumping claim, as well as the selling price to this country, the comparable selling price in the ordinary course of trade in the country of export or origin, or the comparable export selling price to an appropriate third country provided that the price is representative, or the constructed price consisting of the cost of production in the country of origin plus a reasonable amount for administrative, sales and other relevant expenses, and for profits;

(3) where the applicant asserts that there is a necessity for the provisional imposition of countervailing or anti-dumping duty, the applicant shall state the reasons thereof; and

(4) the applicant who asserts the necessity for the imposition of a countervailing duty or anti-dumping duty on the imported product prior to the date of the provisional imposition of a countervailing duty or anti-dumping duty shall state the existence of situations as prescribed under Article 42.

4. Information about the injury to the domestic industry:

(1) the production, volume and value of sales, profits, employment and utilization of production capacity, during the most recent three years, for the applicant and the industry which the applicant represents;

(2) the total volume and value of the imports of the subject product during the most recent three years, the market share in the domestic market, the volume and value of the imports from the country of export, its impact on the prices of the domestic like product, the description of alleged injury in the domestic industry, and information on the causal link between the subsidized or dumped imports and alleged injury;

(3) where an assertion of a material retardation of establishment of a domestic industry of the like product occurred, the applicant shall prove that the establishment of such an industry is imminent, and that the plan for the new industry has been substantially implemented;

(4) where there is a good reason for not being able to submit the information of the most recent three years relating to the injury

to the domestic industry, the applicant may nevertheless submit such information of the most recent period relating to the injury to the domestic industry.

Article 8

With respect to an application for imposition of a countervailing duty or anti-dumping duty, the MOF shall consult with the relevant agencies to submit a proposal as to whether to refer the matter of the initiation of an investigation to the Tariff Commission (hereinafter referred to as the Commission) for decision; provided, that the application shall be rejected for any of the following reasons:

1. the identity of the applicant does not meet the conditions prescribed under Article 6;
2. the contents of the application do not meet the requirements prescribed under the preceding Article, and the subsequent supplement and correction is not made within the prescribed time limit so required by the authority;
3. the application is obviously not within the scope of the imposition of a countervailing duty or anti-dumping duty.

With the exception of application rejected pursuant to the preceding reasons, the MOF shall, within 30 days from the next day of receipt of the application, submit the proposal to the Commission for decision. However, where the applicant has been notified to provide supplement and correction of its application within a specified period of time, the 30 days limit is to be counted from the next day of receipt of the completed version of the application.

For the case in which the Commission decides to initiate an investigation of countervailing duty, the MOF shall, prior to the making of public notice of initiation of investigation, officially notify the government of the country of export or origin, or its official representative for consultation with the aim of clarifying the situation and arriving at a mutually agreed solution. Moreover, during the period of the investigation, the MOF shall provide opportunities for further consultations.

For the case in which the Commission decides to initiate an investigation of anti-dumping, the MOF shall, prior to the public notice of initiation of investigation, officially notify the government of the country of export, or its official representative.

The consultation pursuant to paragraph 3 above shall have no effect on the progress of the investigation and determination.

Article 9

For the case in which the Commission decides not to initiate an investigation, the MOF shall immediately notify the applicant and the known interested parties in writing, and close the case after making a public notice thereof. For the case in which the Commission decides to initiate the investigation, the MOF shall immediately notify the applicant and the known interested parties in writing and make a public notice thereof.

Pursuant to the preceding paragraph, the case in which the Commission decides to initiate an investigation, any unknown foreign producers, exporters and domestic importers may, within 20 days from the next day of the public notice of the initiation of the investigation, express to the MOF its identity and willingness to be involved in the investigation in writing.

Upon initiation of the investigation, the MOF shall provide the text of application as required under Article 7 to the government of the country of export or origin, or its representative and all known foreign exporters, and to other interested parties upon request. However, this provision does not apply with respect to information which shall be kept confidential pursuant to the relevant acts and regulations.

Article 10

The term “interested party” as set forth in the Regulations shall include the following:

1. a foreign producer, exporter, and domestic importer of the product under investigation, and a commercial, industrial, or agricultural association in which a majority of the members of which are domestic importers, foreign producers or exporters;
2. the government or its representative of the exporting country or area of the product under investigation, or the country or area of origin of the product under investigation;
3. a producer of domestic like products or a commercial, industrial, or agricultural association in which a majority of the members of which are domestic producers;
4. other interested parties as determined by the authority concerned.

Article 11

For the case in which the Commission determines to initiate an investigation, the MOF shall proceed with an investigation of the existence of a subsidy or dumping, and shall immediately refer such case to the MOEA for investigation into the existence of injury to the domestic industry.

Article 12

When the MOEA conducts an investigation pursuant to the preceding Article, it shall examine the information submitted by the applicant and the interested parties, and any other relevant information available, and shall notify the MOF regarding its preliminary determination within 40 days from the next day of its receipt of the notice from the MOF. For the case where the preliminary determination made is that there was no injury to the domestic industry, the MOF shall, after the Commission determines to terminate the case, immediately notify the applicant and the known interested parties in writing, and make a public notice thereof. For the case where the preliminary determination made is that there was injury to the domestic industry, the MOF shall, within 70 days from the next day of its receipt of the notice from the MOEA, submit the case to the Commission to make a preliminary determination of whether there is a subsidy or dumping, and shall notify the applicant and the known interested parties in

writing, and make a public notice thereof.

Article 13

In cases where a public notice has been made pursuant to Article 9, and interested parties have been given opportunities to submit information and make comments, the MOF may, after a preliminary determination of the existence of subsidy or dumping and of the consequent injury to the domestic industry, apply provisional countervailing or anti-dumping measures after consulting with the competent authorities, in order to prevent injury to the domestic industry during the investigation period, and shall notify the applicant and all known interested parties immediately and make a public notice thereof.

The duty-payer may provide security or guarantee as set forth in Article 11 of the Act, for the imposition of provisional countervailing duty or antidumping duty as referred to in the preceding paragraph.

The provisional countervailing duty or anti-dumping duty shall not be levied during the sixty-day period from the date of initiating an investigation. The maximum provisional duty levy period is four months. However, upon the request of the foreign exporter occupying a considerable ratio of the trade volume, the maximum imposition period of the provisional antidumping duty may be extended to six months.

When the MOF, in the course of an investigation, considers to examine whether a duty lower than the margin of dumping would be sufficient to remove injury, the aforesaid imposition periods of four months and six months shall be extended to six months and nine months respectively following determination by the Commission.

Article 14

For the case in which the preliminary determination is made, the MOF shall proceed with the investigation, whether there is a subsidy or dumping involved, and shall, within 60 days from the next day of a public notice of the preliminary determination, submit the case to the Commission to make its final determination.

For the case in which the final determination is that there is no existence of a subsidy or dumping, the MOF shall terminate the case and notify the applicant and the known interested parties in writing, and make a public notice thereof. At the same time, the MOF shall notify the MOEA of the termination of its investigation. For the case in which the final determination is that there is the existence of a subsidy or dumping, the MOF shall immediately notify the applicant and the known interested parties in writing, and make a public notice thereof, and refer the case to the MOEA. The MOEA shall complete, within 40 days from the next day of receipt of the notice, the final investigation and determination of whether the subsidy or dumping causes injury to domestic industry, and shall notify the MOF of its final determination.

Article 15

In the case of the discovery of any of the following circumstances during the course of the investigation made by competent authorities, the MOF

shall submit the details of the case to the Commission for determination, and thereby terminate the investigation:

1. there is insufficient evidence of subsidy, dumping or injury;
2. the amount of subsidy is less than one percent of the price of the subject product imported into this country;
3. the dumping margin is, upon the final determination, less than two percent of the price of the like product imported from the country or countries of export or origin into this country; and
4. the respective volumes of dumped or subsidized imports of subject countries are found to account for less than three percent of imports of the like product, except that the total imports of all such subject countries exceeds seven percent of the total imports of the like product.

Where the investigation is terminated pursuant to the preceding paragraph, the MOF shall immediately notify the applicant and any known interested parties in writing, and make a public notice thereof, and close the case thereafter.

Article 15-1

The applicant may, after the public notice of the initiation of an investigation of the case being made, apply for withdrawal of the Case to the MOF with the reasons to its withdraw as well as presenting qualified representative of the industry pursuant to Article 6. The MOF may, after consulting with the relevant agencies, submit a proposal to the Commission for decision. The period of time, from receipt of the application of withdrawal to submission of a proposal to the Commission for decision, shall be excluded from the time set forth for investigation in Article 12, Article 14, paragraph 1 of Article 16, paragraph 2 of Article 43, and paragraphs 4 and 5 of Article 44.

The application of withdrawal of the Case as referred to in the preceding paragraph, if the Commission decides to terminate the investigation, the MOF shall immediately notify the applicant and the known interested parties in writing and make a public notice thereof. However, if the Commission deems it is necessary to proceed with the investigation, the competent authorities shall continue the investigation ex officio, and notify the applicant in writing.

Article 16

For the case in which the final determination made by the MOEA is that there is no injury to the domestic industry, the MOF shall, within ten days from the next day of its receipt of the notice from the MOEA, after the Commission determines to terminate the case, immediately notify the applicant and any known interested parties in writing, and make a public notice thereof. Where the final determination found injury to the domestic industry, the MOF shall, within ten days from the next day of its receipt of the notice from the MOEA, submit the case to the Commission to determine whether to impose a countervailing duty or anti-dumping duty. For the case in which the Commission determines to impose a countervailing duty or anti-

dumping duty, the MOF shall, pursuant to the relevant acts and regulations, approve the subject products, the country or countries of export, respective duty rates and the commencement or closing date of the imposition of the countervailing duty or anti-dumping duty, and shall immediately notify the applicant and any known interested parties in writing, and make a public notice thereof. For the case in which the Commission decides not to impose countervailing or anti-dumping duty, the MOF shall notify the applicant and any known interested parties in writing, and make a public notice thereof.

In deliberating the imposition of a countervailing duty or anti-dumping duty as referred to in the preceding paragraph, the Commission shall take the existence of a subsidy or dumping and the injury to the industry as its primary consideration, and may also consider the influence of the case on the overall economic interests of the country.

Article 17

The public notice concerning the initiation of the investigation, the preliminary or final determination, the provisional imposition of a countervailing duty or anti-dumping duty pursuant to the Regulations, and the suspension or termination of the investigation following the acceptance of an undertaking pursuant to paragraph 1 of Article 24, unless confidentiality is required, shall state the following:

1. Public notice concerning the initiation of the investigation:

(1) the names of the country or countries of export or origin, and the products involved;

(2) the date of the initiation of the investigation;

(3) the basis on which the subsidy or dumping is alleged;

(4) a summary of the economic factors of the alleged injury to the industry; and

(5) the period for submission of opinions by the interested parties and the address of the competent authorities to which opinions by such parties shall be directed.

2. Public notice concerning preliminary or final determination:

(1) the result of the determination on major assertion; and

(2) the reasons and legal bases of the determination.

3. Public notice concerning the provisional imposition of a countervailing duty or anti-dumping duty:

(1) the reasons and legal bases of the preliminary determination of the existence of subsidy, dumping and injury;

(2) the names of the foreign producers, exporters, country or countries of export or origin;

(3) the description of the products involved;

(4) the reasons for the determination of the subsidy or dumping margin thereof; and

(5) the main reasons leading to the determination of the provisional imposition of a countervailing duty or anti-dumping duty.

4. Public notice concerning the suspension or termination of the investigations following the acceptance of an undertaking:

(1) the relevant facts and legal bases for the acceptance of an undertaking;

(2) the reasons for accepting or rejecting the opinions provided by the interested countries, foreign exporters and domestic importers;

(3) the reasons for the determination of a subsidy or dumping margin, and injury thereof; and

(4) the information of the undertaking which is non-confidential.

Article 18

Where necessary for the investigation and determination of the case, the competent authorities shall extend the respective period as set forth in the Regulations up to one half of the respective period.

The competent authority shall notify the extension of the aforesaid period to the applicant and any known interested parties in writing, and shall make a public notice thereof.

Article 19

With respect to the investigation of the case, the competent authority shall:

1. request the applicant and the known interested parties to respond to the questionnaire, or to provide relevant information;

2. conduct an appropriate investigation of the relevant evidence and information presented in writing by the applicant and the interested parties;

3. where necessary, send officers to conduct an investigation at the premises of the domestic importers or producers of the like product, the foreign producers or exporters; and

4. where necessary, notify the applicant or the known interested parties to present their opinions, or accept the requests with reasons made by the applicant or the interested parties to express their opinions.

When the questionnaire is delivered to the foreign producers or exporters pursuant to the first subparagraph of the preceding paragraph, the foreign producers or exporters shall be given at least 30 days to reply from the day of receipt. Any requests with reasons for an extension of the above period may be granted where necessary.

Article 20

With respect to the information submitted, the applicant and the interested parties shall separately identify which information may be disclosed and which may not. However, where confidentiality is requested, the non-

confidential summary shall be furnished.

Where the request for confidentiality, pursuant to the preceding paragraph, is not warranted, or where the non-confidential summary is not provided, the competent authority may disregard such information. The applicant and the interested parties may retrieve such information within seven days from the next day of receipt of the notice.

Where the applicant and the interested parties request for confidentiality of the information so provided is warranted, the competent authorities shall not disclose such information without the specific permission of the party submitting it.

Article 21

Where the applicant and the interested parties fail to submit the necessary information within the specified time, or otherwise impede the investigation, the competent authority may be free to make determinations on the basis of the facts available.

Article 22

Unless otherwise set forth in the Regulations, Articles 10, 11, 12, 13, 14, and 15, and paragraph 1 of Article 17 of "Rules for Handling Import Relief Cases" shall apply mutatis mutandis to the investigation conducted by the ITC as to whether there is injury to the domestic industry.

Article 23

Following the preliminary determination, upon receipt of satisfactory undertakings from the government of the exporting country or the foreign exporters to eliminate the effect of the injury sustained in the subsidy or dumping, or other effective measures, so as to eliminate the injury to domestic industry. The MOF may also suggest the use of such undertakings to the governments of the exporting countries or the foreign exporters.

With respect to the undertaking pursuant to the preceding paragraph, the government of the exporting country or the foreign exporters shall apply to the MOF in writing within 30 days from the next day of the public notice of the preliminary determination of subsidy or dumping.

Applicant shall provide an application of undertaking and commit to implement the terms and conditions as follows:

1. scope of product concerned and terms of undertaking,
2. export price of product concerned will be no less than the price of undertaking,
3. information related to the fulfillment of undertaking will be provided on a regular basis,
4. information related to the fulfillment of undertaking will be reviewed by competent authority,
5. acceptance of on-the-spot verification to be conducted by competent authority, when necessary,
6. commitment of not taking any compensatory arrangement or in any other form to affect results of the undertaking, and

7. provision of other requirements that competent authority deems necessary.

Upon receiving the application of undertaking pursuant to the preceding Article, the MOF shall provide competent authority in charge of domestic industry and interested parties with opportunities to comment in writing.

Article 24

Application of undertaking shall be submitted to the Commission for decision; where the Commission decides to approve the application, the MOF may suspend the investigation and provisional imposition of countervailing duty or anti-dumping duty, and notify the applicant and the known interested parties and make public a notice thereof. If the Commission deems that the terms and conditions of the application are not practical, or that there are too many actual or potential exporters, or that approval of the application is not compliant with the general policy or for other reasons, the MOF may reject the application and notify the applicant and known interested parties and make public a notice thereof.

Where the MOF accepts the application of undertaking pursuant to the preceding Article, the competent authorities may continue the investigation, ex officio, or at the request of the government of the exporting country or the foreign exporters.

Where a negative determination of subsidy, dumping or injury is made, the undertaking shall automatically lapse, except in cases where such a determination is due in large part to the existence of the undertaking.

Article 25-1

Upon approval of the application of undertaking decided by the Commission, government of the exporting country or the foreign exporters shall fulfill commitments prescribed in the undertaking pursuant to paragraph 3 of Article 23, and cope with the verification to be done by the MOF.

Where the government of the exporting country or the foreign exporter is in violation of the undertaking, the competent authorities may terminate the undertaking, and shall conduct the following regulations:

1. Where the final determination has been made, and the imposition of countervailing duty or anti-dumping duty has been decided, the approved duty rate is to be imposed accordingly.
2. The investigation of the case being suspended pursuant to paragraph 1 of Article 24, such investigation shall be completed as soon as possible. In cases when the countervailing duty or anti-dumping duty was not provisionally imposed or when such imposition was suspended, the MOF may, when necessary, provisionally impose the countervailing duty or anti-dumping duty after submission of facts available to the Commission for determination. Where the imposition of a countervailing duty or anti-dumping duty is determined, the definitive duties may be levied on products imported not more than 90 days before the application of such a provisional imposition of the duties. However, the imposition of definitive duties shall not apply to products imported prior to the violation.

Article 26

For the purpose of the Regulations, a subsidy shall be deemed to exist if any of the following measures is provided directly or indirectly by the government or a public body of the exporting country to the specific enterprise or industry and thereby a benefit is conferred:

1. the provision of grants, loans or equity infusions.
2. the provision of loan guarantees.
3. the expungement or non-collection of taxes that are otherwise due.
4. the purchase of goods or provision of goods or services other than for general infrastructure.
5. the provision of income or price support.

The following circumstances shall not be considered as conferring a benefit:

1. the provision of equity capital by the government or a public body of the exporting country is consistent with the usual investment practice of the private sector.
2. there is no difference between the commercial loan that the firm receiving from the government or a public body of the exporting country and the commercial loan the firm could actually obtain on the market.
3. there is no difference between the amount that the firm receiving the guarantee pays on a loan guaranteed by the government or a public body of the exporting country and the amount the firm would pay on a comparable commercial loan absent the government guarantee.
4. the provision of goods or services by the government or a public body of the exporting country is no less than adequate remuneration or the purchase of goods is no more than adequate remuneration. The adequacy of remuneration shall be determined in relation to prevailing market conditions.

Article 27

For the purpose of the Regulations, the amount of subsidy shall be determined by the amount received on a per unit basis of the imported product, and any of the following circumstances shall be taken into account accordingly:

1. where the expenses incurred are for obtaining the subsidy, or where the export duty or tax is imposed by the exporting country to counteract the subsidy, such expenses, and duty or tax shall be deducted;
2. where the subsidy is not granted on the basis of the quantity of production or exportation, the total amount of the subsidy shall be allocated to the products produced or exported during a specific period of time;
3. where the subsidy is granted in the form of a loan or loan guarantee, it shall be calculated by referring to the difference

between the interest actually paid, or payable by the recipient, and the interest payable under the comparable commercial loan or loan guarantee in the exporting country.

Article 28

Any of the following circumstances shall not be treated as being in the ordinary course of trade pursuant to paragraph 2 of Article 68 of the Act, and the price thereof shall not be considered as the normal value:

1. where the cost or price is affected because of an association or a compensatory arrangement between the purchaser and seller; or
2. where sales of the like product in the exporting country, country of origin or sales to a third country at prices below per unit costs of production plus administrative, selling and other relevant costs, which are made within an extended period of time, and all the weighted average selling prices of the transactions are below the weighted average per unit cost, or that the volume of sales below per unit costs represents more than 20 percent of the volume sold in the transaction, and are at prices which do not provide for the recovery of all costs within a reasonable period of time. If prices which are below per unit costs at the time of sale are above the weighted average cost during the period of investigation, such prices shall be considered to provide for recovery of costs within a reasonable period of time.

Article 29

For the purpose of the Regulations, the term “in the absence of the comparable domestic selling price” as referred to in paragraph 2 of Article 68 of the Act indicates that the domestic market of the country of export or origin is subject to one of the following situations:

1. where there are no sales of the like product in the ordinary course of trade;
2. where the volume of sales of the like product is less than five percent of the volume of sales of such product to the country. However, a lower ratio shall be acceptable if the sales are made under ordinary course of trade and are sufficient to provide for a proper comparison; and
3. where there is a particular market situation.

Article 30

Pursuant to paragraph 2 of Article 68 of the Act, when there is no comparable domestic selling price and the constructed value is used as the basis for comparison, the amounts for administrative, selling and other relevant expenses, and for normal profits shall be based on actual data pertaining to production and sales of the foreign producer or exporter in the ordinary course of trade of the subject product. When such amounts cannot be determined on this basis, the amounts shall be determined on the basis of:

1. the actual expenses and profit incurred and realized by the foreign

producer or exporter under investigation in respect of production and sales in the domestic market of the country of origin of the like product;

2. the actual weighted average expenses and profit incurred and realized by other foreign producers or exporters subject to investigation in respect of production and sales of the like product in the domestic market of the country of origin;

3. any other reasonable method, provided that the amount for profit so established shall not exceed the profit normally realized by other exporters or producers on sales of the like product in the domestic market of the country of origin.

Article 31

For the case in which there is no imported selling price or where it appears that the selling price of the product under investigation is unreliable because of association or a compensatory arrangement between the foreign exporter and the domestic importer or a third party, the selling price may be constructed by the MOF on the basis of the price at which the imported products are first resold to an independent buyer.

Article 32

For the purpose of the Regulations, the dumping margin shall be determined by the difference between the selling price of imported products into this country and its normal price.

The aforementioned dumping margin may be established on the basis of a comparison of a weighted average imported selling price into this country with a weighted average normal value, or by a comparison of the imported selling price and normal value on a transaction-by-transaction basis. Where the imported selling price of the products entering into the country differs significantly among different purchasers, regions or time periods, the individual selling price may be compared with a weighted average normal value.

With respect to the constructed selling price of the goods imported into this country determined pursuant to Article 31, the following expenses incurred between importation and resale shall be deducted prior to making a comparison with the normal value:

1. insurance, transportation, handling, loading and unloading, and other relevant expenses;

2. customs duties and other taxes; and

3. reasonable profit or commission normally realized.

For the case in which products are not imported directly from the country of origin but are exported to this country from a third country, the dumping margin shall be determined by comparing the imported selling price of the products entering into this country and the normal value in the third country pursuant to paragraph 1 above. However, a comparison may be made between the normal value in the country of origin, if the products are merely trans-shipped through the third country, or if such products are not produced in the third country, or if there is no normal value for them in

the third country.

When the country of origin or export is a non-market economy, the normal value shall be determined by comparing comparable selling price or constructed value of the like product in a market economy third country, or by comparing comparable selling price of the like product from such a third country to another market economy country, or to this country; or where these are not possible, on such other reasonable basis as may be determined.

Article 33

The determination of the dumping margin, pursuant to the preceding Article, shall, in addition, comply with the following:

1. comparison made between the imported selling price into the country and the normal value, shall be made at the same level of trade and at as nearly as possible the same time.
2. adjustments shall be made for differences in physical characteristics, taxation, level of trade, transaction time, quantity, terms of sale, and other factors which affect price comparability.

When the comparison under subparagraph 1 of previous paragraph requires a conversion of currencies, such conversion shall be made using the rate of exchange on the date of sale. The exporters shall be given an opportunity to adjust their imported selling price of the products entering into this country to reflect sustained movements in exchange rate during the period of investigation. However, when a sale of foreign currency on forward markets is directly linked to the export sale involved, the rate of exchange in the forward sale shall be used.

Article 34

The dumping margin as referred to in Article 32 shall be determined individually for each known foreign producer or exporter under investigation.

For the case in which the number of foreign producers, exporters, domestic importers, or types of products involved are so large as to make such a determination impracticable, the competent authorities may limit their investigation either to a reasonable number of interested parties or products, or to parties of the largest percentage of the volume of the exports from the subject country, so as to determine the individual dumping margin for each foreign producer or exporter under investigation.

Pursuant to the preceding paragraph, the MOF shall determine an individual dumping margin and applicable duty rate for any foreign producer or exporter not initially selected who submits the necessary information in time, except where the number of producers or exporters is so large as to affect the investigation.

Article 35

Any anti-dumping duty applied to foreign producers or exporters not included in the initially selected investigation, pursuant to the preceding

Article, shall not exceed the weighted average dumping margin established with respect to the foreign producers or exporters selected for investigation.

Where any dumping margin established for selected foreign producers or exporters with respect to the circumstances referred to in subparagraph 3 of paragraph 1 of Article 15, or Article 21, such dumping margin shall be disregarded in the calculation of the aforementioned weighted average.

Article 35-1

Foreign producers or exporters of the case may apply for the new shipper review to MOF with relevant documents or proof of evidence, and request for an individual dumping margin, respectively, provided that:

1. no exportation of product concerned to Taiwan during the period of investigation.
2. they can show that they are not related to any of the exporters or producers of the case, and they have not exported the product concerned to Taiwan during the period of investigation.
3. they have exported a significant quantity of the product concerned to Taiwan following the original period of investigation.

After the public notice of the imposition of anti-dumping duty, exporter or producer may apply for new shipper review pursuant to the preceding paragraph to the MOF, within one year from the date of the first importation of the product concerned.

With respect to the case of new shipper review, the MOF shall finish the investigation within nine months from the date of public notice of the initiation of the review, and submit its proposal to the Commission for decision. Where the decision is made, the MOF shall notify the foreign producers or exporters who apply for the new shipper review and known interested parties in writing and make a public notice thereof.

From the date of initiating the new shipper review, the MOF may request the duty-payers who import the product under investigation from the foreign producers or exporters applying for the new shipper review, to provide security or guarantee in the form set forth in Article 11 of the Act to ensure the imposition of the potentially owed anti-dumping duty. Where the new shipper’s individual dumping margin has been determined, if the amount of the definitive duty is higher than the guarantee, the difference shall not be collected; if such amount is lower than the guarantee, the difference shall be refunded.

Article 36

With respect to the determination of whether the dumped or subsidized imports are causing injury to the domestic industry, the competent authority shall conduct an investigation and comprehensive evaluation of the following:

1. the increase of the imports in question, including either in absolute terms or relative to production or consumption in the country;

2. the effect of the imports in question on the market price of the domestic like product, including whether there has been a price undercutting, or whether the effect of such imports is to depress prices or prevent price increases, and whether the price of such imports is lower than the price of a domestic like product;

3. the impact of the imports in question on the domestic industry, including an evaluation of the following economic factors, having a bearing on the state of the industry:

(1) output;

(2) productivity;

(3) utilization of capacity;

(4) inventories;

(5) sales;

(6) market share;

(7) selling price;

(8) dumping margin of the subject products;

(9) profits;

(10) return on investments;

(11) cash flow;

(12) employment and wages;

(13) growth;

(14) ability to raise capital or investments;

(15) other relevant factors.

Article 37

In making a determination regarding the existence of a threat of material injury pursuant to Article 69 of the Act, the competent authority should conduct a comprehensive evaluation on, inter alia, such factors as the rate of increase of subsidized or dumped imports, capacities, inventories, export potential of foreign producers or exporters, and imported selling price, and consider whether further subsidized or dumped imports are imminent and material injury to the domestic industry would occur unless protective action is taken.

Article 38

In assessing the effect of subsidized or dumped imports in relation to the domestic industry, when available data permit the separate identification of that production on the basis of the production process, producers' sales and profits, the competent authority shall take the conditions of the production of the domestic like product as the basis for assessment.

Where separate identification of such production of the domestic like product pursuant to the preceding paragraph is not possible, the competent authorities shall assess, according to information available, the effects of the subsidized or dumped imports by the examination of the production of

the narrowest group or range of products, which includes the like product.

Article 39

Where imports of a product from more than one country are simultaneously subject to subsidy or anti-dumping investigations, the competent authority may assess the cumulative effects of such imports, after taking into account the following:

1. the absence of circumstances prescribed in subparagraphs 2 and 3 and the first sentence of subparagraph 4 of paragraph 1 of Article 15.
2. the conditions of competition between imported products.
3. the conditions of competition between the imported products and the domestic like products.

Article 40

Where a case concerning the provisional imposition of a countervailing duty or anti-dumping duty is found to fall under one of the following situations, the countervailing duty or anti-dumping duty may be levied retroactively from the date when the provisional imposition of such duty was applied:

1. a final determination of material injury to the domestic industry is made;
2. in the existence of the provisional imposition of a countervailing duty or anti-dumping duty which has led to a final determination of a threat of material injury rather than material injury to the domestic industry.

Except the case concerning the provisional imposition of countervailing duty and anti-dumping duty as provided under subparagraph 2 of the preceding paragraph, where a final determination of a threat of material injury to the domestic industry or material retardation of the establishment of such an industry is made, a countervailing duty or anti-dumping duty shall be imposed from the date of such determination, and any duty paid or security deposited for the provisional imposition of such a duty, shall be refunded or released by the MOF.

Article 41

Where a final determination is negative, any cash or securities deposited for the provisional imposition of a countervailing duty or anti-dumping duty shall be refunded or released.

Where a case is determined to impose a countervailing duty or anti-dumping duty pursuant to paragraph 1 of the preceding Article, if the amount of the definitive duty is higher than the duty provisionally imposed, the difference shall not be collected; if such amount is lower than the duty provisionally imposed, the difference shall be refunded.

Article 42

Where the imports subject to the imposition of a countervailing duty or anti-dumping duty are found to fall under one of the following situations, the MOF may, after a determination has been made by the Commission, impose

a countervailing duty or anti-dumping duty on the products imported not more than 90 days before the application of the provisional duty:

1. the injury to the domestic industry is caused by the massive imports in a relatively short time of a product benefiting from the subsidies;
2. the injury to the domestic industry is caused by the massive dumped imports of a product in a relatively short time, and there is a history of dumping which caused injury;
3. the injury to the domestic industry is caused by the massive dumped imports of a product in a relatively short time, and the domestic importers are, or should have been, aware that the exporters practice such dumping which would cause injury to the domestic industry.

Article 43

Following the public notice of the imposition of a countervailing duty or anti-dumping duty, the MOF shall submit the case for a review as to whether to conduct an interim investigation on the lapse or change of the findings, ex officio, or provided that one year has elapsed since the imposition of the duty, upon request by the applicant or any interested party which submits positive information substantiating the need for a review.

With respect to such case where the interim investigation has been determined following examination and resolution by the Commission, the competent authorities shall, within nine months from the next day of the public notice of the investigation, make a determination. Such period may be extended; however, the investigation shall normally be concluded within twelve months of the date of initiation of the investigation, where necessary.

With respect to the case described in the preceding paragraph, competent authorities shall do as follows respectively:

1. where the case concerns whether the situations of subsidy or dumping have lapsed or changed, the MOF shall notify the interested parties and make a public notice thereof following the completion of the investigation and the submission to the Commission for determination as to whether to terminate or change the imposition thereof;
2. where the case concerns whether the situations of injury to the domestic industry have lapsed or changed, the MOF shall immediately refer the case to the MOEA for the investigation and determination. At the time when the MOEA notifies the MOF of its results, the MOF shall notify the interested parties and make a public notice thereof following submission to the Commission for examination and resolution as to whether to terminate or change the imposition;
3. where the case concerns whether the situations of subsidy or dumping, and injury to the domestic industry have lapsed or changed, the MOF shall, in addition to referring the part on injury to the domestic industry to the MOEA for investigation, complete the investigation as to whether the situations of subsidy or dumping

have lapsed or changed, and submit the results of such investigation to the Commission for examination and resolution. With respect to the case determined by the Commission that the situations of subsidy or dumping have lapsed, the MOF shall notify the MOEA to terminate the investigation, and further notify the interested parties and make a public notice to terminate the imposition thereof;

4. having completed the investigation as to whether the situations of injury to the domestic industry have lapsed or changed and made a determination pursuant to the preceding subparagraph, the MOEA shall notify the MOF of its result. The result, together with the results of the investigation as to whether the situations of subsidy or dumping have lapsed or changed, shall be submitted by the MOF to the Commission for examination and resolution as to whether to terminate or change the imposition of duty. The MOF shall notify the interested parties and make a public notice thereof.

With respect to the investigation, examination and resolution pursuant to the preceding paragraph, the competent authorities shall examine whether the continued imposition of the duty is necessary to offset subsidy or dumping, for the case which concerns whether the situations of subsidy or dumping have lapsed or changed, and whether the injury would be likely to continue or recur if the duty were removed or varied, for the case which concerns whether the situation of injury to the domestic industry has lapsed or changed. The Regulations, with the exception of Article 12 to Article 14 and Article 40 to Article 42, shall apply mutatis mutandis to the procedures of the investigation, examination and resolution pursuant to the preceding paragraph.

With respect to undertakings accepted under paragraph 1 of Article 24, the preceding paragraphs shall apply mutatis mutandis to the procedures concerning the investigation and determination as to whether the situation of the undertakings has lapsed or varied.

Article 44

The imposition of any countervailing duty or anti-dumping duty shall be terminated on a date not later than five years from its imposition or from the date of the continued imposition under subparagraph 4, paragraph 3 of the preceding article, unless the competent authorities have initiated an investigation to determine whether or not to continue the imposition of countervailing or anti-dumping duty (hereinafter referred to as the sunset investigation), and determine that the expiry of the duty would be likely to lead to continuation or recurrence of subsidization or dumping and of injury.

The duty shall remain in force pending a determination pursuant to the preceding paragraph.

Prior to the time that the imposition of a countervailing duty or anti-dumping duty has exceeded four years and six months, the MOF shall make a public notice that the period of imposition is approaching five years. If the interested parties under subparagraph 3 of Article 10 consider that the continuous imposition is necessary, they shall make such an application for initiation of a sunset investigation within one month from the next day of

the public notice thereof. The MOF shall submit the application to the Commission for decision as to whether to initiate the review.

With respect to the case where the initiation of the sunset investigation has been decided under the preceding paragraph, the MOF shall, within six months from the date when the initiation of the review is publicized, complete the investigation into the subsidy and dumping under the provisions of paragraph 1 above and notify the MOEA. The MOEA shall conduct the investigation under paragraph 1 from the date when the initiation of the review is publicized, complete the investigation within two months from the date after its receipt of the MOF notice, and notify the MOF. The MOF shall, within ten days from the next day of receipt of the notice, submit the case to the Commission for decision. Where it is decided that the imposition shall continue, the MOF shall notify the known interested parties and make a public notice thereof.

The period prescribed in the preceding paragraph may be extended, if necessary; however, the period of investigation by the MOF shall not exceed ten months, and that by the MOEA shall not exceed twelve months. The Regulations, except for Article 12 to Article 14 and Article 40 to Article 42, shall apply mutatis mutandis with respect to the procedures used thereof.

Where the interested parties pursuant to paragraph 3 above do not provide substantiated evidence, or do not submit application within the prescribed period pursuant to paragraph 3, or the Commission decides not to initiate the sunset investigation, or not to continue the imposition, the MOF shall notify the known interested parties and make a public notice thereof.

With respect to the case where application of undertakings have been approved pursuant to paragraph 1 of Article 24, the undertaking measures shall remain in effect before the determination of the sunset investigation, provisions of paragraph 1 and paragraphs 3, 4, 5 and 6 of this Article shall apply mutatis mutandis to the procedures used thereof.

Article 45

For the purpose of implementing the provisions of the preceding two articles regarding investigation of injury and determination as to whether the termination or change of the countervailing duty or anti-dumping duty would be likely to lead to the continuation or recurrence of injury to the domestic industry, the MOEA shall make a comprehensive evaluation based on the following factors:

1. whether the increase of imports would be likely to continue or recur;
2. whether the effects of imports on market prices of the domestic like products would be likely to continue or recur;
3. whether the injury to the domestic industry caused by the imports would be likely to continue or recur.

Article 45-1

For cases where the determination is of no injury to domestic industry or of non-existence of subsidy or dumping pursuant to Article 12, Article 14,

and Article 16, or where the investigation is terminated pursuant to Article 15 and Article 15-1, or where an interim investigation or sunset investigation is finished pursuant to Article 43 and Article 44, respectively, applicants of the cases shall not reapply for the same incident within a year from the next day of the public notice of termination or finish of the investigation.

Article 46

Where the imported product subject to the imposition of a countervailing duty or anti-dumping duty, is further processed and exported, such duty shall not be refunded; however, where the imported product is re-exported in its original form which meets the requirements for an exemption of customs duty under the Act, such duty may be refunded.

Article 47

Where it is found that the producers or exporters of the exporting country provide or compensate the amount of the countervailing duty or anti-dumping duty which is paid by the duty-payer, such amount shall be further imposed as a countervailing duty or anti-dumping duty.

Article 48

With respect to issues related to investigation, and determination of the case pursuant to the Regulations, the competent authorities may refer to relevant international agreement or customary practices, provided that there are no specific provisions prescribed in the Act or in the Regulations.

Article 49

With respect to the making of public notices pursuant to the Regulations, the competent authorities shall publicize each such notice on their website respectively or by all means available for public viewing or information.

Article 50

The Regulations shall become effective from the date of promulgation.

Data Source：Ministry of Finance, R.O.C. Laws and Regulations Retrieving System