

**NOTIFICATIONS OF LAWS AND REGULATIONS UNDER
ARTICLE 18.5 OF THE AGREEMENT**

PEOPLE'S REPUBLIC OF CHINA

Supplement

The following communication, dated 16 October 2007, is being circulated at the request of the Delegation of the People's Republic of China.

Decree of the Ministry of Commerce concerning Publication of "Rules on Information Access and Information Disclosure in Industry Injury Investigations"

No. 19 2006

Rules on Information Access and Disclosure in Industry Injury Investigations have been deliberated and adopted at the fifth ministerial meeting held on May 17, 2006. They are hereby promulgated, which shall take effect thirty days after the date of publication.

Minister: Bo Xilai
4 August, 2006

Rules on Information Access and Disclosure in Industry Injury Investigations

Chapter 1 General Provisions

Article 1 These Rules are formulated in accordance with the Regulations of the People's Republic of China on Anti-Dumping and the Regulations of the People's Republic of China on Countervailing Measures for the purposes of ensuring the openness, fairness and impartiality in the investigations of industry injury and safeguarding the legitimate rights and interests of the interested parties.

Article 2 Activities on information access and disclosure in the investigations of industry injury for anti-dumping and countervailing measures shall be carried out pursuant to these Rules.

Article 3 The Ministry of Commerce of the People's Republic of China shall be responsible for implementation of the Rules.

Article 4 "Interested parties" referred to in the Rules include:

- (1) Foreign (regional) producers, exporters and domestic importers of the product under investigation, or associations or other organizations of such producers, exporters and importers;
- (2) The government of the exporting country (region) of the product under investigation;
- (3) The producers of domestic like product, or associations or other organization of such producers;
- (4) Others.

Article 5 "Information access" referred to in the Rules means that all interested parties involved in a case can have access to the Public Reading Room of the Ministry of Commerce for Trade Remedy Measures (hereinafter after referred to as "the Public Reading Room") to search, read, extract and copy the public information related to the investigations of industry injury.

Article 6 "Information disclosure" referred to in the Rules means that within a reasonable period of time before a final determination is made, the Ministry of Commerce informs the interested parties of the basic facts on which the determination of industry injury is based.

Chapter 2 Information Access

Article 7 All interested parties can have access to the public information related to the investigations of industry injury , except for the information set forth in Article 9.

Article 8 "Public information" referred to in the Rules includes:

- (1) The public text or non-confidential summary of the petition and its appendix;
- (2) The public text or non-confidential summary of the application materials submitted by the interested parties for registration to participate in the activities of industry injury investigations;
- (3) The public text or non-confidential summary of the answers to the questionnaire and supplementary questionnaire submitted by the interested parties for investigations of industry injury;
- (4) The public text or non-confidential summary of other application materials submitted by the interested parties to the Ministry of Commerce in the course of investigations of industry injury, including those for holding hearings on investigations of industry injury, delayed submission of questionnaire, adjustment of product scope, exclusion of domestic producers, etc.; the public text or non-confidential summary of the opinions or comments submitted by other interested parties on the relevant application;
- (5) The public text or non-confidential summary of the opinions and comments submitted by the relevant interested parties on the request for confidentiality and the public text

or non-confidential summary of confidential information provided by other interested parties;

- (6) The public text or non-confidential summary of the meeting record or summary of the hearings with regard to investigations of industry injury;
- (7) Publications and notices issued by the Ministry of Commerce, including publications of filing a case, preliminary determinations, definitive determinations, etc.; notices of application for registration to participate in the investigations of industry injury and distribution of questionnaire, on-the-spot investigations, public hearings, adoption of sampling investigations, etc.;
- (8) The public text or non-confidential summary of the disclosure materials containing the basic facts on which the definitive determination of the Ministry of Commerce in respect of industry injury is based;
- (9) Other public information received or produced by the Ministry of Commerce in the course of investigations of industry injury.

Article 9 Any information which can not be publicly obtained, and of which the disclosure would be of significant competitive advantage to a competitor or the disclosure would have a significantly adverse effect upon a person supplying the information or upon a person from whom that person acquired the information, should be treated as confidential information.

Any information which is by nature confidential, or which is provided on a confidential basis by the interested parties shall, upon good cause shown, be treated by the Ministry of Commerce as confidential information.

Article 10 In providing relevant information to the Ministry of Commerce, the interested parties shall indicate it is public or confidential information. Information not indicated whether confidential or not may be treated as public information by the Ministry of Commerce.

Article 11 Interested parties providing confidential information shall indicate in writing the causes for request for confidentiality, and simultaneously furnish the public text or non-confidential summaries thereof. If the interested parties request partial revision of or supplement to the materials submitted, they shall also furnish the public text or non-confidential summaries in relation to such revision or supplement and explanations thereof.

The public text or non-confidential summaries shall be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. In exceptional circumstances, with the approval of the Ministry of Commerce, interested parties may not furnish the public text or non-confidential summaries, but a statement of the reasons why public text or non-confidential summaries are not possible must be provided.

Article 12 If interested parties are either unwilling to provide the public text or non-confidential summaries of confidential information, or the public text or non-confidential summaries submitted are not in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence, or interested parties' reasons why the public text or non-confidential summaries are not possible are not adequate, the Ministry of Commerce may ask them to withdraw the request for confidentiality. If interested parties are unwilling to withdraw their requests, the Ministry of Commerce may disregard such information unless it can be demonstrated to its satisfaction from other appropriate sources that the information is correct.

Article 13 If the Ministry of Commerce is of the opinion that the reasons of the request for confidentiality of the interested parties are not in compliance with the requirements of the Rules, it shall, within seven days after receipt of relevant public text or non-confidential summary, make explanation to the interested parties and allow them to comment on it within a reasonable period of time. If the Ministry of Commerce determines to disregard the information provided by the interested parties, it shall notify the interested parties forthwith in writing, however except that the Ministry of Commerce is demonstrated to its satisfaction from other appropriate sources that the information is correct.

Article 14 The Ministry of Commerce shall, within seven days after receipt of the relevant materials listed in Article 8 of the Rules, furnish one copy of the public text or non-confidential summary to the Public Reading Room for consultation.

Without particular circumstances, the Ministry of Commerce shall, within ten days in general, send the public text or non-confidential summary of other relevant information listed in Article 8 of the Rules to the Public Reading Room.

Article 15 In the course of investigations of industry injury, all the interested parties can, within working hours, gain access to the Public Reading Room to consult all public information related to the case.

Within six months after definitive determination is published, the interested parties can also have access to the relevant public information of the case.

Article 16 In having access to public information, the interested parties shall present the document sufficient to prove their identity and make registration.

Article 17 The interested parties can search, read, extract and copy public information, but shall not take the original copy of the public information away from the Public Reading Room.

Chapter 3 Information Disclosure

Article 18 Given the requirement of protection of confidential information, the Ministry of Commerce shall, within a reasonable period of time before definitive determination is made, notify the interested parties having registered to participate in the investigations of industry injury and the domestic applicants of the basic facts on which the definitive determination is based, and shall inform other interested parties not having registered that they can consult relevant disclosure materials at the Public Reading Room.

Article 19 The contents of the basic facts referred to in Article 18 of the Rules generally cover:

- (1) Injury Investigation Period and procedures of investigations of industry injury;
- (2) Factors or data used to identify domestic like product;
- (3) Factors or data on which identification of domestic industry is based;
- (4) Factors or data on cumulative assessment;
- (5) Data of the volume (in absolute or relative terms) and price of dumped or subsidized import product;

- (6) Relevant economic factors or data to identify whether domestic industry is injured or not;
- (7) The factors or data that the investigated country (region) will further injure the domestic industry;
- (8) Adoption of relevant information provided by the interested parties, including use of best information available and the reasons thereof, etc.;
- (9) Other information that causes material influence on the determination.

Article 20 In general, the Ministry of Commerce shall make information disclosure thirty days before definitive determination is made. In particular circumstances, if it is not appropriate to disclose certain facts in the said period of time, the Ministry of Commerce shall make such disclosure within a reasonable period of time before definitive determination is made thereafter.

Article 21 Information disclosure shall be made in writing. Information disclosure can be made either directly to the relevant interested parties or to their agents.

Article 22 After information is disclosed, the interested parties can, within ten days, comment to the Ministry of Commerce in writing.

Article 23 As to the comments provided by the interested parties in the specified period of time, the Ministry of Commerce shall take them into consideration, and accept the reasonable contents in the definitive determination. If the basic facts on which the definitive determination is based are therefore different, without prejudice to the normal investigating procedures of a case, the Ministry of Commerce shall still promptly disclose such information so that the relevant interested parties can comment thereafter.

Chapter 4 Supplementary Rules

Article 24 Information access and disclosure in the investigations of industry injury for reviews shall be implemented with reference to the Rules.

Article 25 The Ministry of Commerce shall be entitled to the interpretation of the Rules.

Article 26 The Rules shall come into effect thirty days after the date of publication.
