

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

INDONESIA

The following communication, dated 16 March 2012, is being circulated at the request of the Delegation of Indonesia.

UNOFFICIAL ENGLISH TRANSLATION

This is an unofficial English translation of the Government Regulation Number 34 of 2011 concerning Antidumping Measure, Countervailing Measure, and Safeguard Measure. In the event that there may be different or conflicting interpretation of any of the Articles, Paragraphs or Elucidations as stipulated in the original and the translated versions, the Indonesian language version shall prevail.

**GOVERNMENT REGULATION OF
THE REPUBLIC OF INDONESIA**

NUMBER 34 OF 2011

CONCERNING

**ANTIDUMPING MEASURE, COUNTERVAILING MEASURE,
AND SAFEGUARD MEASURE**

In consideration of:

- a. whereas in order to implement the regulation stipulated in Law Number 7 of 1994 concerning the Ratification of the Agreement Establishing the World Trade Organization and Article 23D Law Number 10 of 1995 concerning Customs as amended by Law Number 17 of 2006, it is necessary to revitalize the regulation on antidumping measure, countervailing measure, and safeguard measure;
- b. whereas based on the consideration mentioned in point a, it is deemed necessary to enact Government Regulation concerning Antidumping Measure, Countervailing Measure, and Safeguard Measure;

In view of:

1. Article 5 paragraph (2) of the 1945 Constitution of the Republic of Indonesia;

2. Law Number 7 of 1994 concerning the Ratification of the Agreement Establishing the World Trade Organization (State Gazette of the Republic Indonesia Year 1994 Number 57, Supplementary State Gazette Number 3564);
3. Law Number 10 of 1995 on Customs (State Gazette of the Republic Indonesia Year 1995 Number 75, Supplementary State Gazette of the Republic Indonesia Number 3612) as amended by Law Number 17 of 2006 (State Gazette of the Republic Indonesia Year 2006 Number 93, Supplementary State Gazette Number 4661);

HAS DECIDED TO

Enact:

GOVERNMENT REGULATION OF THE REPUBLIC OF INDONESIA CONCERNING ANTIDUMPING MEASURE, COUNTERVAILING MEASURE, AND SAFEGUARD MEASURE.

CHAPTER I

GENERAL PROVISIONS

Article 1

In this Government Regulation:

1. Antidumping Measure shall be understood to mean a measure taken by the government by imposing Antidumping Duty on Dumped Products.
2. Countervailing Measure shall be understood to mean a measure taken by the government by imposing Countervailing Duty on Subsidized imported products.
3. Safeguard Measure in Trade, hereinafter referred to as Safeguard Measure, shall be understood to mean a measure imposed by the government to remedy Serious Injury or to prevent Threat of Serious Injury suffered by a Domestic Industry resulting from imports in such increased, either in absolute and relative terms, to Like Products or Directly Competitive Products.
4. Dumped Products shall be understood to mean products which are imported at the Export Price which is less than its Normal Value in the exporting country.
5. Export Price shall be understood to mean the actual price paid or payable for products exported to Indonesia's Custom Territory.
6. Normal Value shall be understood to mean the actual price paid or payable for the Like Product in the ordinary course of trade at domestic market of the exporting country destined for consumption.
7. Dumping Margin shall be understood to mean the difference between the Normal Value and Export Price of the Dumped Products.
8. Subsidy shall be understood to mean:
 - a. any direct or indirect financial contribution provided by the government or any public body, to an enterprise, industry or group of industries or exporters; and/ or
 - b. any form of income or price support, given directly or indirectly to increase exports or to decrease imports from or to the relevant country, which confers benefit to the Subsidy recipient.
9. Nett Subsidy shall be understood to mean the difference between Subsidy and:
 - a. application fee, securities, or other charges paid to obtain the Subsidy; and/ or

- b. Charges imposed at the time of export to replace the Subsidy given to the exported products.
10. Like Products shall be understood to mean domestically produced products which are identical or alike in all aspects to the imported products or products which have characteristics closely resembling to those of the imported products.
11. Directly Competitive Products shall be understood to mean domestically produced products which in its usage can substitute the Products Under Investigation.
12. Quota shall be understood to mean a quantitative restriction on number of products that can be imported imposed by the government.
13. Injury, for the purpose of Anti-dumping Measure shall be understood to mean:
- a. material injury which has occurred to the Domestic Industry;
 - b. threats of material injury to the Domestic Industry; or
 - c. material retardation of the establishment of an industry of the Like Products in the country.
14. Injury, for the purpose of Countervailing Measure shall be understood to mean:
- a. material injury which has occurred to the Domestic Industry;
 - b. cancellation or reduction of profits which is directly or indirectly obtained from tariff concession from the subsidizing country; or
 - c. Serious threats of material injury to the Domestic Industry.
15. Serious Injury shall be understood to mean a significant overall impairment in the position of a Domestic Industry.
16. Threat of Serious Injury shall be understood to mean serious Injury that is clearly imminent to a Domestic Industry based on facts, and not merely on allegation, conjecture, or prediction.
17. Domestic Industry, for the purpose of Anti-dumping Measure or Countervailing Measure, are domestic producers as a whole of the Like Products or those producers whose collective output of the products constitutes a major proportion of the total domestic production of those Like Products, excluding:
- a. domestic producers of the Like Products which are related to the exporters, exporter's producers, or importers of the Dumped Products or products which contain Subsidy; and
 - b. importers of Dumped Products or products which contain subsidy.
18. Domestic Industry, for the purpose of Safeguard Measure, shall be understood to mean producers as a whole of the Like Products or the Directly Competitive Products operating within the territory of Indonesia, or whose collective production output of the said products constitutes a major proportion of the total domestic production of the those products.
19. Provisional Measures shall be understood to mean measures taken to prevent the Injury being caused during the investigation, in the form of Provisional Anti-dumping Duty or Provisional Countervailing Duty.
20. Duty shall be understood to mean a charge collected by the state, as imposed on imported products.
21. Anti-dumping duty shall be understood to mean a charge collected by the state, as imposed on Dumped Products causing Injury.
22. Provisional Anti-dumping Duty shall be understood to mean a charge collected by the state, as imposed during the investigation on Dumped Products causing Injury based on sufficient *prima facie* evidence.
23. Countervailing Duty shall be understood to mean a charge collected by the country, which is imposed on imported products which contain Subsidy causing Injury.

24. Provisional Countervailing Duty shall be understood to mean a charge collected by the state, as imposed during the investigation on imported products which contain Subsidy causing Injury, based on sufficient *prima facie* evidence.
25. Safeguard Duty shall be understood to mean a charge collected by the State to remedy Serious Injury or to prevent Threats of Serious Injury suffered by Domestic Industry resulting from imports in such increased, of imported products of the Like Products or the Directly Competitive Products with the purpose of facilitating the aforesaid Domestic Injury to undergo necessary adjustment.
26. Products Under Investigation, for the purpose of Anti-dumping Duty and Countervailing Duty, are imported products which are the object of anti-dumping investigation or imported products which are allegedly to contain subsidy, as stated in the description and specification of the products and tariff code in accordance with Indonesian import duty tariff nomenclature.
27. Products Under Investigation, for the purpose of Safeguard Measure, shall be understood to mean imported product in such increased quantities, which is under investigation, as stated in the description and specification of the products and tariff code stipulated in the Book of Indonesian Import Duty.
28. Minister shall be understood to mean the minister in charge of trade affairs.
29. The Indonesian Anti-dumping Committee, hereinafter referred to acronym "KADI", shall be understood to mean the committee which is tasked to undertake investigation in relation to Anti-dumping Measures and Countervailing Measures.
30. The Indonesian Safeguard Committee, hereinafter referred to the acronym "KPPI", shall be understood to mean the committee which is tasked to undertake investigation in relation to Safeguard Measure.

CHAPTER II

ANTI-DUMPING MEASURE

Part One

Anti-dumping Duties

Article 2

- (1) In addition to import duty, an anti-dumping duty may also be charged provided the Export Price of the imported products is less than its Normal Value and caused Injury.
- (2) The rate of the Anti-dumping Duty as mentioned in paragraph (1) shall not exceed the margin of dumping.

Part Two

Investigation

Article 3

- (1) Anti-dumping Duty as mentioned in Article 2 is imposed after an investigation has been conducted by KADI.
- (2) The investigation by KADI as mentioned in paragraph (1) may be conducted based on an application or on KADI's own initiative.

Article 4

- (1) Domestic producers of the Like Products and/or association of domestic producers of the Like Products may file a written application as mentioned in Article 3 paragraph (2) to KADI to conduct investigation for the purpose of imposing of Anti-dumping Measure on imported products which are alleged as Dumped Products causing Injury.
- (2) The application as mentioned in paragraph (1) can only be made by domestic producers of the Like Products and association of domestic producers of the Like Products on behalf of the Domestic Industry.
- (3) Domestic producers of the Like Products and association of domestic producers of the Like Products shall be considered to represent the Domestic Industry, provided:
 - a. its production is more than 50% (fifty percent) of the total production of the petitioner as mentioned in paragraph (1) and domestic producers of the Like Products who oppose the application for investigation; or
 - b. production of the petitioner as mentioned in paragraph (1) and domestic producers of the Like Products supporting the application for investigation is more than 50% (fifty percent) of the total production of petitioner, those who support the application, and those who oppose the application for investigation.
- (4) The Application as mentioned in paragraph (1) shall contain *prima facie* evidence and supported by proper documentation showing the existence of:
 - a. Dumped Products;
 - b. Injury; and
 - c. A causal link between the Dumped Products and the Injury suffered by the petitioner.
- (5) Documents as mentioned in paragraph (4) consist of confidential data and non-confidential data.
- (6) In case where there is no reasonable ground to treat the confidential data as mentioned in paragraph (5) on a confidential basis, KADI may disregard the confidential nature of such data.
- (7) The implementing regulation concerning the procedure to file an application as mentioned in paragraph (1) shall be regulated further in Decree of Minister of Trade.

Article 5

Investigation based on KADI's own initiative as mentioned in Article 3 paragraph (2) can be conducted if KADI has sufficient *prima facie* evidence on the existence of Dumped Products, Injury suffered by the Domestic Industry, and a causal link between the Dumped Products and the Injury suffered by the Domestic Industry.

Article 6

- (1) Investigation can only be conducted if:
 - a. production of the petitioner or production of the petitioner and those who support the application constitute 25% (twenty five percent) or more than the total production of the Like Products produced by the Domestic Industry, if the investigation is to be conducted based on an application; or
 - b. Production of the Domestic Industry supporting the investigation to be initiated constitutes 25% (twenty five percent) or more than the total production of the Like Products produced by the Domestic Industry, if the investigation is to be conducted based on KADI's own initiative.
- (2) Investigation cannot be conducted or shall be immediately terminated against certain exporters, exporter's producers, or exporting country if KADI found that:
 - a. the rate of the Dumping Margin is less than 2% (two percent) of the Export Price; and/or
 - b. the volume of the Dumped Products from:

1. one country is less than 3% (three percent); and
2. several countries as mentioned in paragraph (2) point b.1 collectively account for 7% (seven percent) or less, of the total import of the Like Products.

Article 7

- (1) In case where the properly documented application as mentioned in Article 4 paragraph (1) has been accepted, KADI shall inform the existence of such an application to the government of the exporting countries.
- (2) In a period of at the latest 30 (thirty) working days since the date when the properly documented application has been accepted as mentioned in Article 4 paragraph (1), KADI:
 - a. review the sufficiency and accuracy of the *prima facie* evidence presented in the application; and
 - b. provide a decision:
 1. to reject, in case where the application does not fulfill the conditions of Article 4 and Article 6 paragraph (1) point a; or
 2. to accept and to decide initiating an investigation, in case where the application fulfills the conditions of Article 4 and Article 6 paragraph (1) point a.

Article 8

- (1) An investigation for the purpose of imposing Anti-dumping Measure starts at the time of its public notice.
- (2) Besides public notice as mentioned in paragraph (1), KADI shall inform the initiation of the investigation to:
 - a. the exporters and/or exporter's producers directly or through the government of the exporting countries, the representative of the government of the Republic of Indonesia in the exporting countries, importers, and petitioner, in case where the investigation is conducted based on an application; or
 - b. the exporters and/or exporter's producers directly or through the government of the exporting countries, the representative of the government of the Republic of Indonesia in the exporting countries, importers, and the Domestic Industry, in case where the investigation is conducted based on KADI's own initiative.
- (3) An investigation ends on the date of the final determination of the investigation.

Article 9

- (1) The investigation as mentioned in Article 8 shall be conducted within a maximum period of 12 (twelve) months since the date when the investigation starts.
- (2) In special circumstances, the period of the investigation as mentioned in paragraph (1) may be extended to a maximum period of 18 (eighteen) months.
- (3) If during the course of investigation no evidence of Dumped Products causing Injury is found, KADI shall promptly terminate the investigation and report to the Minister.
- (4) The termination of the investigation shall be immediately informed directly to the exporters and/or exporter's producers or through the government of the exporting countries, the representative of the government of the Republic of Indonesia in the exporting countries, the petitioner or the Domestic Industry, and the importers, along with the reasons.

Article 10

- (1) KADI shall report the final determination of the investigation to the Minister and the exporters and/or exporter's producers directly or through the government of the exporting countries, the representative of the government of the Republic of Indonesia in the exporting countries, the petitioner or the Domestic Industry, and the importers, at the latest 7 (seven) working days since the date when the investigation ends.

- (2) In case where the final determination of the investigation evidences the existence of Dumped Products causing Injury, KADI shall determine the rate of the Dumping Margin and give recommendation to the Minister on the imposition of Anti-dumping Duty.
- (3) In case where the final determination of the investigation fails to demonstrate the existence of Dumped Products causing Injury, KADI shall report to the Minister regarding the termination of the investigation.

Part Three Evidence and Information

Article 11

- (1) In conducting an investigation of the Dumped Products, KADI shall request required information from the following parties:
 - a. the exporters and/ or the exporter's producers directly or through the government of the exporting countries;
 - b. the petitioner or the Domestic Industry; and
 - c. the importers.
- (2) Request for information as mentioned in paragraph (1) may include with request of documents.
- (3) The parties as mentioned in paragraph (1) may declare confidential or non-confidential nature of certain information or documents that they provided.
- (4) Confidential information or documents as mentioned in paragraph (3) shall be supported by reasonable ground about the nature of its confidentiality.
- (5) In case where the reasons as mentioned in paragraph (4) cannot be accepted, KADI may ignore the confidential nature of the information or documents provided.
- (6) Information or documents that are declared confidential shall not be provided to other parties without specific permission from the person who provides such information or documents.
- (7) The parties as mentioned in paragraph (1) shall submit written information to KADI along with supporting evidence within a maximum period of 40 (forty) calendar days since the date of request for information.
- (8) In case where the Party(s) as mentioned in paragraph (1) cannot provide such information within the period as mentioned in paragraph (7), the Party(s) may request for an extension for a maximum period of 30 (thirty) calendar days to KADI.
- (9) Aside from requesting for information from the parties mentioned in paragraph (1), KADI may provide opportunities to user industries of the Products Under Investigation and representative of consumer organization to provide information about the Products Under Investigation.

Article 12

- (1) In case where the number of exporters, exporter's producers, importers, or types of the Products Under Investigation involves in large number, KADI may limit the examination in an investigation.
- (2) The limitation as mentioned in paragraph (1) shall be conducted in the following manner:
 - a. Randomly selecting exporters, exporter's producers, importers, or types of Products Under Investigation by utilizing statistical method based on available information; or
 - b. Utilizing the largest percentage of the volume of the exports of the Products Under Investigation from the country in question.

Article 13

- (1) Upon a request from exporters, exporter's producers, the petitioner or the Domestic Industry, importers, and the government of the exporting countries or KADI's own initiative, KADI may conduct hearing for the purpose of providing opportunities to exporters, exporter's producers, the petitioner or the Domestic Industry, Importers, and the government of the exporting countries, to present evidence and information orally for the purpose of defending their interest.
- (2) Such a request as mentioned in paragraph (1) can only be made:
 - a. at the latest 14 (fourteen) calendar days since the due date of the submission of request for information as mentioned in Article 11 paragraph (7) and (8); or
 - b. at the latest 14 (fourteen) calendar days after the date of the disclosure of preliminary report on investigation.
- (3) In making defenses as mentioned in paragraph (1), exporters, exporter's producers, the petitioner or the Domestic Industry, importers, and the government of the exporting countries, shall submit written evidence at the latest 5 (five) calendar days since the date of the hearing.
- (4) The implementing regulation concerning the request and the procedure to conduct a hearing shall be regulated further in Decree of Minister of Trade.

Article 14

KADI may provide information that it received as mentioned in Article 11 and the results of the hearing as mentioned in Article 13 which are in nature non-confidential to:

- a. exporters, exporter's producers, importers, and/or associations whose majority of its members are the exporters, exporter's producers, or importers;
- b. the government of the exporting countries;
- c. domestic producers of the Like Products or association of domestic producers whose majority of its members produce the Like Products; and
- d. other related parties to the Products Under Investigation.

Article 15

In case where exporters, exporter's producers, the petitioner or the Domestic Industry, or importers refuse to provide information and/or documents or impeding the investigation, KADI may conduct investigation based on the best information available.

Article 16

- (1) For the purpose of examining the accuracy and the adequacy of the information and/or documents, KADI may conduct verification at the premise of the exporters, exporter's producers, the petitioner or the Domestic Industry, or the importers of the Products Under Investigation upon consent from the exporters, exporter's producers, the petitioner or the Domestic Industry, or the importers.
- (2) In case where on the spot verification at the premise of the exporters and/or exporter's producers is conducted, KADI shall inform the representative of the government of the exporting countries in Indonesia.

Article 17

For the purpose of the examination of injury, KADI shall evaluate all relevant economic factors related to the condition of the Domestic Industry and other relevant factors.

Part Four
Provisional Measures

Article 18

- (1) If during the course of investigation KADI found sufficient *prima facie* evidence on the existence of Dumped Products causing Injury, KADI may issue a preliminary determination and give recommendation to the Minister to impose Provisional Measures.
- (2) The preliminary determination as mentioned in paragraph (1) shall be informed to the exporters and/or exporter's producers directly or through the government of the exporting countries, the petitioner or the Domestic Industry, and importers.
- (3) The Minister shall convey the recommendation of KADI as mentioned in paragraph (1) to the ministers and/or heads of non-ministerial governmental institutions that are relevant to the Products Under Investigation to obtain their considerations for national interests.
- (4) The ministers or the heads of non-ministerial governmental institutions as mentioned in paragraph (3) shall provide considerations at the latest 14 (fourteen) working days since the date of the Minister's point requesting for such considerations.
- (5) If in a time period of 14 (fourteen) working days as mentioned in paragraph (4) the ministers and/or the heads of non-ministerial governmental institutions do not provide any consideration, the ministers or the heads of non-ministerial governmental institutions shall be deemed to have agreed to KADI's recommendations
- (6) Based on the consideration as mentioned in paragraph (4) and paragraph (5), in a time period of at the latest 45 (forty five) working days since the date of KADI's recommendations, the Minister shall decide to accept or to refuse KADI's recommendations.
- (7) In case where the Minister accepts KADI's recommendations, the Minister shall in the time period as mentioned in paragraph (6) submit a letter to the minister in charge of finance regarding the decision of:
 - a. the rate of the Provisional Antidumping Duty shall not exceed the Dumping Margin; and
 - b. the time period for the imposition of the Provisional Anti-dumping Duty.
- (8) The minister in charge of finance shall determine the tariff rate and the time period for the imposition of the Provisional Anti-dumping Duty in accordance to the decision of the Minister as mentioned in paragraph (7) in a time period of at the latest 30 (thirty) working days since the date of the receipt of the Minister's letter by the minister in charge of finance.
- (9) The determination as mentioned in paragraph (8) shall take into account the convenience of conducting the collection of the Provisional Anti-dumping Duty.

Article 19

- (1) The Provisional Measure shall not be applied sooner than 60 (sixty) days from the date of the initiation of the investigation and shall be applicable for a maximum period of 4 (four) months.
- (2) In case where there is a request from exporters of exporter's producers that represent significant percentage of the Products Under Investigation, the imposition of the Provisional Measure may be applied for a maximum period of 6 (six) months.
- (3) In case where the Provisional Anti-dumping Duty is determined at an amount of lower than the Dumping Margin, the imposition of the Provisional Measure as mentioned in paragraph (1) may be applied for a

period of 6 (six) months or at the maximum period of 9 (nine) months.

Article 20

- (1) The payment of the Provisional Anti-dumping Duty may take the form of the following methods:
 - a. Payment equal to the amount of the Provisional Anti-dumping Duty; or
 - b. Provision of a security in the form of cash deposit, bank security/ bond, or a security from an insurance company, equal to the amount of the Provisional Anti-dumping Duty.
- (2) The methods of payment of the imposed Provisional Anti-dumping Duty as mentioned in paragraph (1) shall be determined by a decree of the minister in charge of finance as mentioned in Article 18 paragraph (8).
- (3) The implementing regulation concerning the procedure of payment of the imposed Provisional Anti-dumping Duty shall be regulated further in Decree of Minister of Finance.

Article 21

- (1) The Minister shall decide the termination of the Provisional Measure if in the final determination of the investigation does not exist the Dumped Products causing Injury.
- (2) The Minister shall inform the decision as mentioned in paragraph (1) to the minister in charge of finance in a period of 14 (fourteen) working days since the date of the KADI's final determination as mentioned in Article 10 paragraph (3).
- (3) The minister in charge of finance shall stipulate the termination of the Provisional Measure in accordance to the decision of the Minister as mentioned in paragraph (2) within a maximum time period of 30 (thirty) working days since the date of the receipt of the Minister's letter by the minister in charge of finance.
- (4) In case where the termination of the Provisional Measure as mentioned in paragraph (3) has been decided, importers may file an application for the refund of the payment or the release any security as mentioned in Article 20 paragraph (1) to the minister in charge of finance.
- (5) The implementing regulation concerning the procedure for the refund of the payment of the Provisional Anti-dumping Duty as mentioned in paragraph (4), shall be regulated further in decree of the minister in charge of finance.

Part Five Undertaking Measures

Article 22

- (1) Exporters and/or exporter's producers or KADI may offer an Undertaking Measure.
- (2) An Undertaking Measure offer is filed by exporters and/or exporter's producers to KADI or from KADI to exporters and/or exporter's producers at the latest 7 (seven) calendar days since the date of:
 - a. the imposition of the Provisional Anti-dumping Duty; or
 - b. the disclosure of preliminary report of the investigation, in case where there is no imposition of any Provisional Anti-dumping Duty.
- (3) The Undertaking Measure as mentioned in paragraph (1) may be in the form of Export Price revision or cease of export of the Dumped Products.
- (4) The Undertaking Measure offer by the exporter and/or exporter's producers as mentioned in paragraph (1) may be approved if the Undertaking Measure would be adequate to remove the injurious effects resulted

from imports of the Dumped Products.

Article 23

- (1) KADI may accept or refuse the Undertaking Measure offer submitted by exporters and/or exporter's producers.
- (2) The acceptance or refusal as mentioned in paragraph (1) shall be informed by KADI to exporters and/or exporter's producers.
- (3) In case where KADI accepts the Undertaking Measure offer, KADI shall conclude a Memorandum of Agreement with the exporter or exporter's producer that offers the Undertaking Measure.
- (4) The acceptance or refusal of KADI as mentioned in paragraph (1) shall not terminate the investigation.
- (5) If KADI accepts the Undertaking Measure offer and based on the final determination of the investigation, Dumped Products causing Injury is found to exist, the Undertaking Measure shall continue.
- (6) If KADI accepts the Undertaking Measure offer and based on the final determination of the investigation Dumped Products causing Injury is found not to exist, the Undertaking Measure shall be terminated, except if the absence of Injury is due to the implementation of the Undertaking Measure.
- (7) During the implementation of the Undertaking Measure, the exporter and/or exporter's producer:
 - a. periodically inform the implementation of the Undertaking Measure to KADI; and
 - b. must be willing to be verified.
- (8) The implementing regulation concerning the Undertaking Measure shall be regulated by the Ministerial Decree.

Article 24

In case where an Undertaking Measure is not executed in accordance to the Memorandum of Agreement:

- a. the subsequent importation of Dumped Products shall be imposed with the Provisional Measure as mentioned in Article 18; or
- b. KADI shall continue the process of imposing the Anti-dumping Duty.

Part Six

Imposition of the Anti-dumping Duty

Article 25

- (1) In order to obtain the considerations of national interests, the Minister shall submit KADI's recommendation as mentioned in Article 10 paragraph (2) to ministers and/or heads of non-ministerial governmental institutions that are related to the Products Under Investigation.
- (2) The ministers and/or the heads of non-ministerial governmental institutions as mentioned in paragraph (1) shall provide considerations within a time period of 14 (fourteen) working days since the date of the Minister's letter requesting for such considerations.
- (3) If in the period of 14 (fourteen) working days as mentioned in paragraph (2), the ministers and/or the heads of non-ministerial governmental institutions that are related to the Products Under Investigation do not provide their considerations, they shall be deemed to have agreed to KADI's recommendations.
- (4) Based on the considerations as mentioned in paragraph (2) and paragraph (3), the Minister shall decide whether to accept or to refuse KADI's recommendations within a time period of 45 (forty five) working days since the date of KADI's recommendations.

- (5) In case where the Minister accepts KADI's recommendations, the Minister shall, within the time period as mentioned in paragraph (4), provide a letter to the minister in charge of finance regarding his/her decision, including:
- a. the rate of the Anti-dumping Duty; and
 - b. the time period for the imposition of the Anti-dumping Duty.

Article 26

- (1) The rate of the Anti-dumping Duty imposed on products exported by non-examined exporters or exporter's producers in the investigation, as mentioned in Article 12 paragraph (1), shall be applied not exceed to:
- a. The weighted average of the Dumping Margin established based on evidence and information from the investigated selected exporters or exporter's producers; or
 - b. The difference between the weighted average Normal Value of the selected exporters or exporter's producers and the Export Prices of exporters or exporter's producers not examined.
- (2) In determining the rate of the Anti-dumping Duty as mentioned in paragraph (1), the Dumping Margin that is zero or less than 2% (two percent) shall be disregarded.

Article 27

- (1) The minister in charge of finance determined the tariff rate and the time period for the imposition of the Anti-dumping Duty in accordance to the decision of the Minister within a time period of at the latest 30 (thirty) working days since the date of the receipt of the Minister's letter as mentioned in Article 25 paragraph (5) by the minister in charge of finance.
- (2) The determination as mentioned in paragraph (1) shall take into account the convenience of conducting the collection of the Anti-dumping Duty.

Article 28

- (1) The rate of the Anti-dumping Duty as mentioned in Article 27 shall be determined on imports of the Dumped Products from:
- a. exporters or exporter's producers or each exporter or exporter's producer in an exporting country; or
 - b. exporters or exporter's producers from several exporting countries.
- (2) In case where it is impracticable to name each exporter or exporter's producer in an exporting country as mentioned in paragraph (1) point a, the imposition of the Anti-dumping Duty can be determined on an exporting country basis.
- (3) In case of exporters or exporter's producers are from several countries as mentioned in paragraph (1) point b, the imposition of the Anti-dumping Duty may be determined for:
- a. each exporter or exporter's producer from each exporting country; or
 - b. one exporting country which is applicable for all exporters or exporter's producers in that country.

Article 29

- (1) In case where there is a difference of the applicable rate of the Provisional Anti-dumping Duty as mentioned in Article 18 paragraph (8) and the rate of the Anti-dumping Duty as mentioned in Article 27, then:
- a. importers may file an application to request for refund of the difference of the excess payment of the

- Provisional Anti-dumping Duty; or
- b. importers shall not be requested to pay the difference of the short of payment of the Provisional Anti-dumping Duty.
- (2) An application for the refund of the difference as mentioned in paragraph (1) point a shall be submitted to the minister in charge of finance.
 - (3) The minister in charge of finance shall provide a decision on the application for the refund of the difference as mentioned in paragraph (1) point a within a maximum time period of 30 (thirty) working days since the date of the receipt of the application.
 - (4) The implementing regulation concerning the refund of the difference of the payment of Provisional Anti-dumping Duty, shall be regulated further in decree of the minister in charge of finance.

Article 30

- (1) The imposition of the Anti-dumping Duty as mentioned in Article 27 shall remain in force for a maximum period of 5 (five) years since the date of imposition.
- (2) In the case where the Provisional Measure has been applied as mentioned in Article 18, the Anti-dumping Duty as mentioned in paragraph (1) may be applied retroactively since the date of the imposition of the Provisional Anti-dumping Duty.
- (3) The retroactive implementation as mentioned in paragraph (2) may only be done on the imposition of an Anti-dumping Duty whose imposition is based on:
 - a. the existence of Injury to the Domestic Industry; or
 - b. the existence of threats of injury which will materialize into Injury to Domestic Industry due to the imports of the Dumped Products if the Provisional Measure is not being applied.
- (4) The retroactive implementation of the imposition of the Anti-dumping Duty as mentioned in paragraph (2) may be applied for not more than 90 (ninety) days prior to the date of the imposition of the Provisional Measure.
- (5) The retroactive implementation as mentioned in paragraph (4), if KADI finds that:
 - a. the Products Under Investigation had been imported as Dumped Products for a short period of time with large quantity that undermines the effectiveness of the imposition of the Anti-dumping Duty in eliminating the Injury; or
 - b. importers have been importing Dumped Products which can cause Injury.
- (6) The retroactive implementation as mentioned in paragraph (4) may not be applied to the imposition of the Anti-dumping Duty whose imposition is based on:
 - a. the existence of threat of injury to the Domestic Industry; or
 - b. material retardation of the establishment of an industry of the Like Products in the country.
- (7) The retroactive implementation of the Anti-dumping duty as mentioned in paragraph (4) may not be applied before the date of the initiation of the investigation.

**Part Seven
Reviews**

**Paragraph 1
General**

Article 31

- (1) The imposition of the Anti-dumping duty may be reviewed based upon:
 - a. an application from exporters, exporter's producers, the petitioner or the Domestic Industry, and/or importers as mentioned in Article 11 paragraph (1) who are cooperative during the course of investigation;
 - b. an application from exporters and/or exporter's producers who did not export the Dumped Products before the imposition of the Anti-dumping Duty and are not affiliated to the exporters and/or exporter's producers who are imposed with Anti-dumping Duty; and/or
 - c. KADI's own initiative.
- (2) The reviews as mentioned in paragraph (1) consist of:
 - a. an interim review, in case where there is a need to examine the likelihood that Injury may still continue and/or Injury will recur if the imposition of the Anti-dumping Duty is terminated;
 - b. a sunset review, in case where the imposition of the Anti-dumping duty will expire.

**Paragraph 2
Interim Review**

Article 32

- (1) The application for an interim review may be submitted by:
 - a. exporters, exporter's producers, and/or importers to terminate the imposition of the Anti-dumping Duty;
 - b. Exporters and/or exporter's producers as mentioned in Article 31 paragraph (1) point b so that they will not be imposed with the Anti-dumping Duty; or
 - c. exporters, exporter's producers, importers, the petitioner or the Domestic Industry, as mentioned in Article 31 paragraph (1) point a, to revise the rate of the imposed Anti-dumping Duty.
- (2) The application as mentioned in paragraph (1) and KADI's own initiative as mentioned in Article 31 paragraph (1) point c can only be submitted no sooner than 12 (twelve) months after the imposition of the Anti-dumping Duty has been made into force by the minister in charge of finance.
- (3) The provisions regarding the application and the investigation of the interim review shall apply *mutatis mutandis* the provisions of Part Two on Investigation and Part Three on Evidence and Information.

Article 33

- (1) In case where KADI receives an application as mentioned in Article 32 paragraph (1), KADI shall conduct an interim review investigation regarding the likelihood that:
 - a. the dumping and the Injury will continue to exist; and/or
 - b. the dumping and the Injury will recur, if the imposition of the Anti-dumping Duty is terminated.
- (2) The interim review investigation as mentioned in paragraph (1) shall be conducted within a maximum time period of 12 (twelve) months since the date of the initiation of the interim review investigation.

- (3) The interim review investigation does not terminate the imposition of the Anti-dumping Duty that has been determined by the minister in charge of finance as mentioned in Article 27 paragraph (1).
- (4) If the result of the interim review investigation finds that Injury continues to exist or Injury recurs, KADI recommends the Minister to:
 - a. reject the application for the termination of the imposition of the Anti-dumping Duty to exporters, exporter's producers, and/or importers;
 - b. reject the application for not to impose the Anti-dumping Duty to the exporters and/or the exporter's producers as mentioned in Article 31 paragraph (1) point b; and/ or
 - c. accept the application for the revision of the rate of the imposed Anti-dumping Duty and the rate of the Anti-dumping Duty that will be imposed, in the case where the interim review is submitted by the petitioner and the Domestic Industry as mentioned in Article 31 paragraph (1) point a.
- (5) If the result of the interim review investigation finds that Injury does not continue and/or Injury does not recur, KADI recommends to the Minister to terminate the imposition of the Anti-dumping Duty.
- (6) Based on KADI's recommendation as mentioned in paragraph (4) point c and paragraph (5), the provisions regarding the imposition of Anti-dumping Duty as mentioned in Article 25 and Article 27 shall apply *mutatis mutandis*.

Paragraph 3 Sunset Review

Article 34

- (1) An application for a sunset review may be submitted by the petitioner or the Domestic Industry as mentioned in Article 31 paragraph (1) point a to request for an extension of the imposition of the Anti-dumping duty:
 - a. along with the revision of the rate of the imposed Anti-dumping Duty; or
 - b. without the revision of the rate of the imposed Anti-dumping Duty.
- (2) The application as mentioned in paragraph (1) and KADI's own initiative as mentioned in Article 31 paragraph (1) point c may only be submitted at the latest 15 (fifteen) months before the expiry date of the imposition of the Anti-dumping Duty.
- (3) The provisions regarding the application and the investigation of the sunset review shall apply *mutatis mutandis* the provisions of Part Two on Investigation and Part Three on Evidence and Information.

Article 35

- (1) In the case where KADI received an application as mentioned in Article 34 paragraph (1), KADI shall conduct a sunset review investigation regarding the likelihood that:
 - a. the dumping and the Injury will continue to exist; and/or
 - b. the dumping and the Injury will recur, if the imposition of the Anti-dumping Duty is terminated.
- (2) The sunset review investigation as mentioned in paragraph (1) shall be conducted within a maximum time period of 12 (twelve) months since the date of the initiation of the sunset review investigation.
- (3) The sunset review investigation does not terminate the imposition of the Anti-dumping Duty that has been determined by the minister in charge of finance as mentioned in Article 27 paragraph (1).
- (4) If the result of the investigation finds that Injury continues to exist and/or Injury recurs, KADI recommends to the Minister to extend the imposition of the Anti-dumping Duty:

- a. along with the revision of the rate of the imposed Anti-dumping Duty; or
 - b. without the revision of the rate of the imposed Anti-dumping Duty.
- (5) Based on KADI's recommendation as mentioned in paragraph (4), the provisions regarding the imposition of Anti-dumping Duty as mentioned in Article 25 and Article 27 shall apply *mutatis mutandis*.

Article 36

The implementing regulation concerning the reviews of Anti-dumping Measures shall be regulated by the Ministerial Decree.

CHAPTER III COUNTERVAILING MEASURE

Part One Countervailing Duties

Article 37

- (1) In addition to import duty, a Countervailing Duty may also be charged, if:
- a. The imported products contain Subsidy from the exporting country; and
 - b. The imported products as mentioned in point a cause Injury.
- (2) The rate of the Countervailing Duty as mentioned in paragraph (1) shall not exceed the Nett Subsidy.

Part Two Investigation

Article 38

- (1) The Countervailing Duty as mentioned in Article 37 is imposed after an investigation has been conducted by KADI.
- (2) The investigation by KADI as mentioned in paragraph (1) may be conducted based on an application or on KADI's own initiative.

Article 39

- (1) Domestic producers of the Like Products and/or association of domestic producers of the Like Products may file a written application as mentioned in Article 38 (2) to KADI to conduct investigation for the purpose of imposing of Countervailing Measure on imported products which contain Subsidy causing Injury.
- (2) The application as mentioned in paragraph (1) can only be made by domestic producers of the Like Products and association of domestic producers of the Like Products on behalf of the Domestic Industry.
- (3) Domestic producers of the Like Products and association of domestic producers of the Like Products shall be considered to represent the Domestic Industry, provided:
- a. its production is more than 50% (fifty percent) of the total production of the petitioner as mentioned in paragraph (1) and domestic producers of the Like Products who oppose the application for investigation; or
 - b. production of the petitioner as mentioned in paragraph (1) and domestic producers of the Like Products supporting the application for investigation is more than 50% (fifty percent) of the total production of petitioner, those who support the application, and those who oppose the application for investigation.

- (4) The application as mentioned in paragraph (1) shall contain *prima facie* evidence and supported by proper documentation showing the existence of:
- a. Subsidy;
 - b. Injury; and
 - c. A causal link between imported products which contain Subsidy and the Injury suffered by the petitioner.
- (5) Documents as mentioned in paragraph (4) consist of confidential data and non-confidential data.
- (6) In case where there is no reasonable ground to treat the confidential data as mentioned in paragraph (5) on a confidential basis, KADI may disregard the confidential nature of such data.
- (7) The implementing regulation concerning the procedure to file an application as mentioned in paragraph (1) shall be regulated further in Decree of Minister of Trade.

Article 40

Investigation based on KADI's own initiative as mentioned in Article 38 paragraph (2) can be conducted if KADI has sufficient *prima facie* evidence on the existence of Nett Subsidy, Injury suffered by the Domestic Industry, and a causal link between the Nett Subsidy and Injury suffered by the Domestic Industry.

Article 41

- (1) Investigation can only be conducted if:
- a. production of the petitioner or production of the petitioner and those who support the application constitute 25% (twenty five percent) or more than the total production of the Like Products produced by Domestic Industry, if the investigation is to be conducted based on an application; or
 - b. production of the Domestic Industry supporting the investigation to be initiated constitutes 25% (twenty five percent) or more than the total production of Like Products produced by the Domestic Industry, if the investigation is to be conducted based on KADI's own initiative.
- (2) Investigation cannot be conducted or shall be immediately terminated against certain exporters, exporter's producers, or exporting country if KADI found that:
- a. The rate of Subsidy is less than 1% (one percent) ad valorem; or
 - b. The volume of imported products which contain Subsidy actually or potentially are negligible, and thus it can be ignored.

Article 42

- (1) In case where the properly documented application as mentioned in Article 39 paragraph (1) has been accepted, KADI shall inform the existence of such an application to the government of the exporting countries.
- (2) In a period of at the latest 30 (thirty) working days since the date when the properly documented application has been accepted as mentioned in Article 39 paragraph (1), KADI:
- a. reviews the sufficiency and accuracy of the *prima facie* evidence presented in the application; and
 - b. provides a decision:
 1. to reject, in case where the application does not fulfill the conditions of Article 39 and Article 41 paragraph (1) point a; or
 2. to accept and to decide initiating an investigation, in case where the application fulfills the conditions of Article 39 and Article 41 paragraph (1) point a.

Article 43

- (1) The investigation for the purpose of imposing Countervailing Measure starts at the time of its public notice.
- (2) Besides public notice as mentioned in paragraph (1), KADI shall inform the initiation of the investigation to:
 - a. the exporters and/or exporter's producers directly or through the government of the exporting countries, the representative of the government of the Republic of Indonesia in the exporting countries, importers, and petitioner, in case there the investigation is conducted based on an application; or
 - b. the exporters and/or exporter's producers directly or through the government of the exporting countries, the representative of the government of the Republic of Indonesia in the exporting countries, importers, and the Domestic Industry, in case where the investigation is conducted based on KADI's own initiative.
- (3) An investigation ends on the date of the final determination of the investigation.

Article 44

- (1) The investigation as mentioned in Article 43 shall be conducted within a maximum period of 12 (twelve) months since the date when the investigation starts.
- (2) In special circumstances, the period of investigation as mentioned in paragraph (1) may be extended to a maximum period of 18 (eighteen) months.
- (3) If during the course of investigation, no evidence of products containing Subsidy that cause Injury is found, KADI shall promptly terminate the investigation and report to the Minister.
- (4) The termination of the investigation shall be immediately informed to the exporters and/or exporter's producers directly or through the government of the exporting country, embassy of the Republic of Indonesia in the exporting country, petitioners or the Domestic Injury, and importers along with the reasons.

Article 45

- (1) KADI shall report the final determination of the investigation to the Minister and the exporters and/or exporter's producers directly or through the government of the exporting countries, the representative of the government of the Republic Indonesia in the exporting countries, the petitioner or the Domestic Industry, and the importers at the latest 7 (seven) working days since the date when the investigation ends.
- (2) In case where the final determination of the investigation evidences the existence of products which contain Subsidy causing Injury, KADI shall determined the rate of the Nett Subsidy and give recommendation to the Minister on the imposition the Countervailing Duty.
- (3) In case where the final determination of the investigation fails to demonstrate the existence of products which contain Subsidy causing Injury, KADI shall report to the Minister regarding the termination of the investigation.

Part Three Evidence and Information

Article 46

- (1) In conducting an investigation on the products which contain Subsidy, KADI shall request the required information from the following parties:
 - a. the exporters and/or the exporter's producers directly or through the government of the exporting countries;

- b. the petitioner or the Domestic Industry; and
 - c. the importers.
- (2) Request for information as mention in paragraph (1) may include with request of documents.
 - (3) The parties as mentioned in paragraph (1) may declare confidential or non-confidential nature of certain information or documents that they provided.
 - (4) Confidential information or documents as mentioned in paragraph (3) shall be supported by reasonable ground about the nature of its confidentiality.
 - (5) In case where the reasons as mentioned in paragraph (4) cannot be accepted, KADI may ignore the confidential nature of the information or documents provided.
 - (6) Information or documents that are declared confidential shall not be provided to other parties without specific permission from the person who provides such information or documents.
 - (7) The parties as mentioned in paragraph (1) shall submit written information to KADI along with supporting evidence within a maximum period of 40 (forty) calendar days since the date of request for information.
 - (8) In case where the Party(s) as mentioned in paragraph (1) cannot provide such information within the period as mentioned in paragraph (7), Party(s) may request for an extension for a maximum period of 30 (thity) calendar days to KADI.
 - (9) Besides from requesting for information from the parties mentioned in paragraph (1), KADI may provide opportunities to user industries of the Products Under Investigation and representative of consumer organization to provide information about the Products Under Investigation.

Article 47

- (1) Upon a request from exporters, exporter's producers, the petitioner or the Domestic Industry, importers, and the government of the exporting countries or KADI's own initiative, KADI may conduct hearing for the purpose of providing opportunities to exporters, exporter's producers, the petitioner or the Domestic Industry, importers, and the government of the exporting countries, to present evidence and information orally for the purpose of defending their interest.
- (2) Such a request as mention in paragraph (1) can only be made:
 - a. at the latest 14 (fourteen) calendar days since the due date of the submission of request for information as mentioned in Article 46 paragraph (7) and (8); or
 - b. at the latest 14 (fourteen) calendar days after the date of the disclosure of preliminary report on investigation.
- (3) In making defenses as mentioned in paragraph (1), exporters, exporter's producers, the petitioner or the Domestic Industry, importers, and the government of the exporting countries, shall submit written evidence at the latest 5 (five) calendar days since the date of the hearing.
- (4) The implementing regulation concerning the request and the procedure to conduct a hearing shall be regulated further in Decree of Minister of Trade.

Article 48

KADI may provide information that it received as mentioned in Article 46 and the results of the hearing as mentioned in Article 47 which are in nature non-confidential to:

- a. exporters, exporter's producers, importers, and/or associations whose majority of its members are the exporters, producers, or importers;

- b. the government of the exporting countries;
- c. domestic producers of the Like Products or association of the domestic producers whose majority of its members produce the Like Products; and
- d. other related parties to the Products Under Investigation.

Article 49

In case where exporters, exporter's producers, the petitioner or the Domestic Industry, or importers refuse to provide information and/or documents or impeding the investigation, KADI may conduct investigation based on the best information available.

Article 50

- (1) For the purpose of examining the accuracy and the adequacy of the information and/or documents, KADI may conduct verification at the premise of exporters, exporter's producers, the petitioner or the Domestic Industry, or the importers of the Products Under Investigation upon consent from exporters, exporter's producers, the petitioner or the Domestic Industry, or importers.
- (2) In case where on the spot verification at the premise of the exporters and/or exporter's producers is conducted, KADI shall inform the representative of the government of the exporting countries in Indonesia.

Article 51

For the purpose of the examination of injury, KADI shall evaluate all relevant economic factors related to the condition of the Domestic Industry and other relevant factors.

Part Four Provisional Measures

Article 52

- (1) If during the course of investigation, KADI found sufficient prima facie evidence on the existence of the products which contain Subsidy causing the Injury, KADI may issue a preliminary determination and give recommendation to the Minister to impose Provisional Measures.
- (2) The preliminary determination as mentioned in paragraph (1) shall be informed to the exporters and/or exporter's producers directly or through the government of the exporting countries, the petitioner or the Domestic Industry, and importers.
- (3) The Minister shall convey the recommendation of KADI as mentioned in paragraph (1) to the ministers and/or heads of non ministerial governmental institutions that are relevant to the Products Under Investigation to obtain their consideration for national interests.
- (4) The ministers or the heads of non-ministerial governmental institutions as mentioned in paragraph (3) shall provide considerations at the latest 14 (fourteen) working days since the date of the Minister's point requesting for such considerations.
- (5) If in a time period of 14 (fourteen) working days as mentioned in paragraph (4) the ministers and/or the heads of non-ministerial governmental institutions does not provide any consideration, the ministers or the heads of non-ministerial governmental institutions shall be deemed to have agreed to KADI's recommendations.
- (6) Based on the consideration as mentioned in paragraph (4), in a time period of at the latest 45 (forty five) working days since the date of KADI's recommendations, the Minister shall decide to accept or to refuse KADI's recommendations.

- (7) In case where the Minister accepts KADI's recommendations, the Minister shall in the time period as mentioned in paragraph (6) submit a letter to the minister in charge of finance regarding the decision of:
- a. the rate of the Provisional Countervailing Duty shall not exceed the Nett Subsidy; and
 - b. the time period for the imposition of the Provisional Countervailing Duty.
- (8) The minister in charge of finance shall determine the tariff rate and the time period for the imposition of the Provisional Countervailing Duty in accordance to the decision of the Minister as mentioned in paragraph (7) in a time period of at the latest 30 (thirty) working days since the date of the receipt of the Minister's letter by the minister in charge of finance.
- (9) The determination as mentioned in paragraph (8) shall take into account the convenience of conducting the collection of the Provisional Countervailing Duty.

Article 53

- (1) The Provisional Measures shall not be applied sooner than 60 (sixty) days from the date of the initiation of the investigation and shall be applicable for a maximum period of 4 (four) months.
- (2) The payment of the Provisional Countervailing Duty may take the form of the following methods:
 - a. Payment equal to the amount of the Provisional Countervailing Duty; or
 - b. Provision of a security in the form of cash deposit, security/bond, or a security from an insurance company equal to the amount of the Provisional Countervailing Duty.
- (3) The methods of payment of the imposed Provisional Countervailing Duty as mentioned in paragraph (2) shall be determined by a decree of the minister in charge of finance as mentioned in Article 52 paragraph (8).
- (4) The implementing regulation concerning the procedure of payment of the imposed Provisional Countervailing Duties shall be regulated further in Decree of Minister of Finance.

Article 54

- (1) The Minister shall decide the termination of the Provisional Measures if in the final determination of the investigation does not exist the products which contain Subsidy causing Injury.
- (2) The Minister shall inform the decision as mentioned in paragraph (1) to the minister in charge of finance in a period of 14 (fourteen) working days since the date of KADI's final determination as mentioned in Article 45 paragraph (3).
- (3) The minister in charge of finance shall stipulate the termination of the Provisional Measures in accordance to the decision of the Minister as mentioned in paragraph (2) within a maximum time period of 30 (thirty) working days since the date of the receipt date of the Minister's letter by the minister that runs governmental functions in the area of finance.
- (4) In case where the termination of the Provisional Measures as mentioned in paragraph (3) has been decided, importers may file an application for the refund of the payment or the release of any security as mentioned in Article 53 paragraph (2) to the minister in charge of finance.
- (5) The implementing regulation concerning the procedure for the refund of the payment of the Provisional Countervailing Duty as mentioned in paragraph (4), shall be regulated further in decree of the minister in charge of finance.

Part Five
Undertaking Measures

Article 55

- (1) Exporters and/or exporter's producers or KADI may offer an Undertaking Measure.
- (2) An Undertaking Measure offer is filed by exporters and/or exporter's producers to KADI or from KADI to the exporters and/or exporter's producers at the latest 7 (seven) working days since the date of:
 - a. the imposition of the Provisional Countervailing Duty; or
 - b. the disclosure of preliminary report of the investigation in case where there is no imposition of any Provisional Countervailing Duty.
- (3) The Undertaking Measure as mentioned in paragraph (1) may be in the form of:
 - a. Export Price revision for the products which contain Subsidy;
 - b. Elimination or limitation on Subsidy or other measures which can eliminate the Injury caused by the Subsidy.
- (4) The Undertaking Measure offer by the exporters and/or exporter's producers as mentioned in paragraph (1) may be approved if the Undertaking Measure would be adequate to remove the Injurious effects resulted from the products which contain Subsidy.

Article 56

- (1) KADI may accept or refuse the Undertaking Measure offer submitted by exporters and/or exporter's producers.
- (2) The acceptance or refusal as mentioned in paragraph (1) shall be informed by KADI to exporters and/or exporter's producers.
- (3) In case when KADI accepts the Undertaking Measure offer, KADI shall conclude a memorandum of agreement with the exporter or exporter's producers that offers the Undertaking Measure.
- (4) The acceptance or refusal of KADI as mentioned in paragraph (1) shall not terminate the investigation.
- (5) If KADI accepts the Undertaking Measure offer and based on the final determination of the investigation, the products which contain Subsidy causing Injury is found to exist, the Undertaking Measure shall continue.
- (6) If KADI accepts the Undertaking Measure offer and based on the final determination of the investigation, the products contain Subsidy causing Injury is found not to exist, the Undertaking Measure shall be terminated, except if the absence of Injury is due to the implementation of the Undertaking Measure.
- (7) During the implementation of the Undertaking Measure, the exporters and/or the exporter's producers:
 - a. periodically inform the implementation of the Undertaking Measure to KADI; and
 - b. must be willing to be verified.
- (8) The implementing regulation concerning the Undertaking Measure, shall be regulated by Ministerial Decree.

Article 57

In case where an Undertaking Measure is not executed in accordance to the Memorandum of Agreement:

- a. The subsequent importation of the products which contain Subsidy shall be imposed with the Provisional Measure as mentioned in Article 52; or
- b. KADI shall continue the process of imposing the Countervailing Duty.

**Part Six
Imposition of Countervailing Duty****Article 58**

- (1) In order to obtain the consideration of national interests, the Minister shall submit KADI's recommendations as mentioned in Article 45 paragraph (2) to ministers and/or heads of non-ministerial governmental institutions that are related to the Products Under Investigation.
- (2) The ministers and/or the heads of non-ministerial governmental institutions as mentioned in paragraph (1) shall provide considerations within a time period of 14 (fourteen) working days since the date of the Minister's letter requesting for such considerations.
- (3) If in the period of 14 (fourteen) working days as mentioned in paragraph (2), the ministers and/or the heads of non-ministerial governmental institutions that are related to the Products Under Investigation do not provide their considerations, they shall be deemed to have agreed to KADI's recommendations.
- (4) Based on the considerations as mentioned in paragraph (2) the Minister shall decide whether to accept or to refuse KADI's recommendation within a time period of 45 (forty five) working days since the date of KADI's recommendations.
- (5) In case where the Minister accepts KADI's recommendations, the Minister shall, within the time period as mentioned in paragraph (4), provide a letter to the minister in charge of finance regarding his/her decision, including:
 - a. The rate of the Countervailing Duty;
 - b. The time period for the imposition of the Countervailing Duty.

Article 59

Exporters and/or exporter's producers, who are not assessed due to reasons other than refusing to submit information as mentioned in Article 49 will be reviewed in an expedited manner in order to determine their Countervailing Duty for each exporter and/or exporter's producer.

Article 60

- (1) The minister in charge of finance determined the tariff rate and the time period for the imposition of the Countervailing Duty in accordance to the decision of the Minister within a time period of at the latest 30 (thirty) working days since the receipt of the Minister's letter as mentioned in Article 58 paragraph (5) by the minister in charge of finance.
- (2) The determination as mentioned in paragraph (1) shall take into account the convenience of conducting the collection of the Countervailing Duty.

Article 61

- (1) The rate of the Countervailing Duty as mentioned in Article 60 shall be determined on imports of the products contain Subsidy from:

- a. exporters or exporter's producers or each exporter or exporter's producers in an exporting country; or
 - b. exporters or exporter's producers from several exporting countries.
- (2) In case where it is impracticable to name each exporter or exporter's producer in an exporting country as mentioned in paragraph (1) (a), the imposition of Countervailing Duty can be determined on an exporting country basis.
- (3) In case where exporters or exporter's producers are from several countries, as mentioned in paragraph (1) (b), the imposition of Countervailing Duty may be determined for:
- a. each exporter or exporter's producer from each exporting country; or
 - b. one exporting country, which is applicable for all exporters or exporter's producers in that country.

Article 62

- (1) In case where there is a difference of the applicable rate of the Provisional Countervailing Duty as mentioned in Article 52 paragraph (8), and the rate of the Countervailing Duty as mentioned in Article 60, then:
- a. importers may file an application to request for refund of the difference of the excess payment of the Provisional Countervailing Duty; or
 - b. importers shall not be requested to pay the difference of the short of payment of the Provisional Countervailing Duty.
- (2) An application for the refund of the difference as mentioned in paragraph (1) point a, shall be submitted to the minister in charge of finance.
- (3) The minister in charge of finance shall provide a decision on the application for the refund of the difference as mentioned in paragraph (1) point a within the maximum time period of 30 (thirty) working days since the date of the receipt of the application.
- (4) The implementing regulation concerning the refund of the difference of the payment of Provisional Countervailing Measure, shall be regulated further in decree of the minister in charge of finance.

Article 63

- (1) The imposition of the Countervailing Duty as mentioned in Article 60 shall remain in force for a maximum period of 5 (five) years since the date of imposition.
- (2) In the case where the Provisional Measure has been applied as mentioned in Article 52, the Countervailing Duty as mentioned in paragraph (1) may be applied retroactively since the date of imposition of the Provisional Countervailing Duty.
- (3) The retroactive implementation as mentioned in paragraph (2) may only be done on the imposition of an Countervailing Duty, whose imposition is based on:
- a. existence of Injury to Domestic Industry; or
 - b. existence of threat of injury which will materialize into Injury to Domestic Industry due to the imports of the products which contain Subsidy if the Provisional Measure is not being applied.
- (4) The retroactive implementation of the imposition of the Countervailing Duty as mentioned in paragraph 2 may be applied not more than 90 (ninety) days prior to the date of the imposition of the Provisional Measure.
- (5) The retroactive implementation as mentioned in paragraph (4), if KADI finds that:
- a. The Products Under Investigation had been imported as products which contain Subsidy for a short

- period of time with a large quantity that undermines the effectiveness of the imposition of the Countervailing Duty in eliminating the Injury; or
- b. Importers have been importing products which contain Subsidy that can cause Injury.
- (6) The retroactive implementation as mentioned in paragraph (4) may not be applied to the imposition of the Countervailing Duty whose imposition is based on:
- a. the existence of threat of Injury to the Domestic Industry; or
- b. material retardation of the establishment of an industry of the Like Products in country.
- (7) The retroactive implementation of the Countervailing Duty as mentioned in paragraph (4) may not be applied before the date of the initiation of the investigation.

Part Seven Judicial Review

Paragraph 1 General

Article 64

- (1) The imposition of the Countervailing Duty may be reviewed based upon:
- a. An application from exporters, exporter's producers, the petitioners or the Domestic Industry, and/or importers as mentioned in Article 46 paragraph (1) who are cooperative during the course of investigation;
- b. An application from exporters and/or exporter's producers who did not export the products which contain Subsidy before the imposition of the Countervailing Duty and are not affiliated to the exporters and/or exporter's producers who are imposed with the Countervailing Duty; and/or
- c. KADI's own initiative.
- (2) The reviews as mentioned in paragraph (1) consist of:
- a. An interim review, in case where there is a need to examine the likelihood that Injury may still continue and/or Injury will recur if the imposition of the Countervailing Duty is terminated.
- b. A sunset review, in case where the imposition of the Countervailing Duty will expire.

Paragraph 2 Interim Review

Article 65

- (1) The application on interim review may be submitted by:
- a. Exporters, exporter's producers, and/or importers to terminate the imposition of the Countervailing Duties;
- b. Exporters and/or exporter's producers as mentioned in Article 64 paragraph (1) point b so that they will not be imposed with the Countervailing Duties; or
- c. Exporters, exporter's producers, importers, the petitioner or Domestic Industry as mentioned in Article 64 paragraph (1) point a to revise the rate of the imposed Countervailing Duties;
- (2) The application as mentioned in paragraph (1) and KADI's own initiative as mentioned in Article 64 paragraph (1) point c can only be submitted no sooner than 12 (twelve) months after the imposition of the Countervailing Duty has been made into force by the minister in charge of finance.
- (3) The provisions regarding the application and investigation of the interim review shall apply mutatis mutandis the provisions of Part Two on Investigation and Part Three on Evidence and Information.

Article 66

- (1) In case where KADI receives an application as mentioned in Article 65 paragraph (1), KADI shall conduct an interim review investigation regarding the likelihood that:
 - a. Injury will continue to exist; and/or
 - b. Injury will recur, if the imposition of Countervailing Duties is terminated.
- (2) The interim review investigation as mentioned in paragraph (1) shall be conducted within a maximum time period of 12 (twelve) months since the date of the initiation of the interim review investigation.
- (3) The interim review investigation does not terminate the imposition of the Countervailing Duty that has been determined by the minister in charge of finance as mentioned in Article 60 paragraph (1).
- (4) If the result of the interim review investigation finds that Injury continues to exist and/or Injury recurs, KADI recommends to the Minister to:
 - a. reject the application for termination of the imposition of the Countervailing Measure to the exporters, exporter's producers, and/or importers;
 - b. reject the application for not to impose the Countervailing Duty to the exporters and/or exporter's producers as mentioned in Article 64 paragraph (1) point b; and/or
 - c. accept the application for the revision of the rate of the imposed Countervailing Duty and the rate of the Countervailing Duty that will be imposed, in the case where the interim review is submitted by the petitioner and Domestic Industry as mentioned in Article 64 paragraph (1) point a.
- (5) If the result of the interim review investigation finds that Injury does not continue and/or Injury does not recur, KADI recommends to the Minister to terminate the imposition of the Countervailing Duty.
- (6) Based on KADI's recommendation as mentioned in paragraph (4) point c and paragraph (5), the provisions regarding the imposition of Countervailing Duty as mentioned in Article 58 and Article 60 shall apply mutatis mutandis.

Paragraph 3 Sunset Review

Article 67

- (1) An application for a sunset review can be submitted by the petitioner or the Domestic Industry as mentioned in Article 64 paragraph (1) point a to request for an extension of the imposition of the Countervailing Duty:
 - a. along with the revision of the rate of the imposed Countervailing Duty;
 - b. without the revision of the rate of the imposed Countervailing Duty.
- (2) The application as mentioned in paragraph (1) and KADI's own initiative as mentioned in Article 64 paragraph (1) point c may only be submitted at the latest 15 (fifteen) months before the expiry date of the imposition of the Countervailing Duty.
- (3) The provisions regarding the application and the investigation of the sunset review shall apply mutatis mutandis the provisions of Part Two on Investigation and Part Three on the Evidence and Information.

Article 68

- (1) In the case where KADI received an application as mentioned in Article 67 paragraph (1), KADI shall conduct a sunset review investigation regarding the likelihood that:

- a. Injury will continue to exist; and/or
 - b. Injury will recur, if the imposition of Countervailing Duties is terminated.
- (2) The sunset review investigation as mentioned in paragraph (1) shall be conducted within a maximum time period of 12 (twelve) months since the date of the initiation of the sunset review investigation.
 - (3) The sunset review investigation does not terminate the imposition of the Countervailing Duty that has been determined by the minister in charge of finance as mentioned in Article 60 paragraph (1).
 - (4) If the result of the investigation finds that Injury continues to exist and/or Injury recurs, KADI recommends to the Minister to extend the imposition of the Countervailing Duty:
 - a. along with the revision of the rate of the imposed Countervailing Duty; or
 - b. without the revision of the rate of the imposed Countervailing Duty;
 - (5) Based on KADI's recommendation as mentioned in paragraph (4), the provisions regarding the imposition of Countervailing Duty as mentioned in Article 58 and Article 60 shall apply *mutatis mutandis*.

Article 69

The implementing regulation concerning the reviews of the Countervailing Measures shall be regulated by the Ministerial Decree.

CHAPTER IV SAFEGUARD MEASURES

Part One Forms of Safeguard Measures

Article 70

- (1) In addition to import duty, a Safeguard Measure can be imposed on imported products, provided:
 - a. there was an increased volume of import, in absolute or relative terms, of a product that is equivalent with the Like Product or the Directly Competitive Product; and
 - b. the increased volume of import as mentioned in letter a has caused Serious Injury or Threat of Serious Injury in the position of a Domestic Industry.
- (2) A Safeguard Measure as mentioned in paragraph (1) may be in the form of Safeguard Duty and/or Quota as imposed.
- (3) The rate of Safeguard Duty as mentioned in paragraph (2) shall not exceed the amount needed to remedy the Serious Injury or to prevent the Threat of Serious Injury in the position of a Domestic Industry.
- (4) The amount of Quota as mentioned in paragraph (2) shall not be less than the average quantity of imports during the last three years, except when there is a reasonable ground that a lower Quota is needed to remedy the Serious Injury or to prevent the Threat of Serious Injury in the position of a Domestic Industry.
- (5) The implementing regulation concerning the imposition of Quota shall be regulated further in Decree of Minister of Trade.

Part Two Investigation

Article 71

- (1) A Safeguard Measure as mentioned in Article 70 can be imposed only after KPPI has conducted an investigation.
- (2) An investigation by KPPI as mentioned in paragraph (1) on Products Under Investigation can be carried out based on an application by a Domestic Industry or on KPPI's own initiative.

Article 72

- (1) The Domestic Industry and/or other domestic parties may submit with KPPI a written application as mentioned in Article 71 paragraph (2) to initiate an investigation with respect to the imposition of Safeguard Measure.
- (2) The application as mentioned in paragraph (1) shall contain *prima facie* evidence and supported by proper documentation showing the existence of:
 - a. increased volume of import of products equivalent with the Like Product or the Directly Competitive Product; and
 - b. Serious injury or Threat of Serious Injury.
- (3) Documents as mentioned in paragraph (2) shall consist of confidential as well as non-confidential data.
- (4) Documents that are declared confidential may not be disclosed to other parties without special permission from the person who provides such documents.
- (5) No later than 20 (twenty) working days since the date that a completed application has been duly received by KPPI as mentioned in paragraph (1), and based on a thorough examination, KPPI shall render a decision whether:
 - a. to reject the said application, in cases where the application does not fulfill the requirements mentioned in paragraph (2); or
 - b. to admit the said application and to determine the initiation of an investigation, in cases where the application fulfills the requirements as mentioned in paragraph (2).
- (6) The implementing regulation concerning the procedure for the submission of application as mentioned in paragraph (1) shall be regulated further in Decree of Minister of Trade.

Article 73

An investigation based on KPPI's own initiative as mentioned in Article 71 paragraph (2) can only be initiated if KPPI has in possession sufficient *prima facie* evidence on the existence of Serious Injury or Threat of Serious Injury in the position a Domestic Industry resulting from increased volume of imported products.

Article 74

- (1) An investigation with respect to the imposition of a Safeguard Measure is initiated at the time of its public notice.
- (2) Beside public notice as mentioned in paragraph (1), KPPI shall inform the initiation of the investigation to:
 - a. the petitioner as mentioned in Article 72 paragraph (1) and the associations of importers, in cases where the investigation is conducted based on an application; or
 - b. the relevant Domestic Industry and associations of importers, in cases where the investigation is

conducted based on KPPI's own initiative.

- (3) An investigation ends on the date of the final report on the result of investigation.

Article 75

In light of the investigation as mentioned in Article 71, KPPI shall evaluate all relevant factors of an objective and quantifiable nature having a bearing on the condition of the Domestic Industry.

Article 76

- (1) If during the course of investigation no evidence was found of increased volume of imports that has caused Serious Injury or Threat of Serious Injury, KPPI shall promptly terminate the investigatory proceeding and submit report the Minister.
- (2) The termination of the investigation shall be notified to the public immediately.
- (3) Beside public notice as mentioned in paragraph (2), KPPI shall notify the termination of investigation to:
- the petitioners as mentioned in Article 72 paragraph (1) and the associations of importers, in cases where the investigation is conducted based on an application; or
 - the relevant Domestic Industry and the associations of importers, in cases where the investigation is conducted based on KPPI's own initiative, accompanied with reasons of termination.

Article 77

If the final report on the result of the investigation contain evidences of the existence of increased volume of imports that have caused Serious Injury or Threat of Serious Injury, KPPI shall submit a recommendation to the Minister for the imposition Safeguard Measure.

Part Three Evidence and Information

Article 78

- (1) In conducting and during an investigation, KPPI may require the provision of information from the following parties:
- the petitioners as mentioned in Article 72 paragraph (1) or the Domestic Industry;
 - the importers; and
 - other relevant interested parties.
- (2) Information as mentioned in paragraph (1) shall be accompanied by confidential and non-confidential documents.
- (3) Information or documents that are declared confidential may not be disclosed to other parties, without special permission from the person who provides such information or documents.
- (4) The petitioners or the Domestic Industry, importers and other relevant interested parties as mentioned in paragraph (1) shall provide KPPI with written explanation along supporting evidences within a maximum period of 30 (thirty) working days since the date of the written request for such information

Article 79

- (1) During the course of investigation, KPPI shall conduct hearing for the purpose of providing opportunities to exporters, exporter's producers, the petitioners or the Domestic Industry, importers, the government of particular exporting countries and other interested parties, to present evidences, views and responses.

- (2) Evidences, views and responses as mentioned in paragraph (1) shall be submitted in writing by exporters, exporter's producers, the petitioners or the Domestic Industry, importers, the government from particular exporting countries and other interested parties within a maximum period of 5 (five) calendar days since the date of the hearing(s).

Part Four
Provisional Safeguard Measure

Article 80

- (1) In circumstances where delay in the imposition of the Safeguard Measure would cause Injury to the Domestic Industry which it would be difficult to repair, during the course of investigation KPPI may give recommendation the Minister to impose a provisional Safeguard Measure.
- (2) The provisional Safeguard Measure as mentioned in paragraph (1) shall be in the form of provisional Safeguard Duty.
- (3) The payment of the Provisional Safeguard Duty is carried out in cash at the amount equal to the rate of the provisional Safeguard Duty.

Article 81

- (1) To secure relevant considerations in light of national interests, the Minister shall convey KPPI's recommendation as mentioned in Article 77 to ministers and/or heads of non-ministerial governmental institutions that are relevant to the Products Under Investigation.
- (2) The ministers and/or the heads of non-ministerial governmental institutions as mentioned in paragraph (1) shall provide its considerations within a maximum period of 14 (fourteen) working days since the date of the Minister's letter requesting for such considerations.
- (3) If during the period of 14 (fourteen) working days as mentioned in paragraph (2), the ministers and/or the heads of non-ministerial governmental institutions do not provide any consideration whatsoever, the said ministers and/or the heads of non-ministerial governmental institutions shall be deemed to have agreed with KPPI's recommendations.
- (4) Based on KPPI's recommendation as mentioned in Article 77, and taking into account the provisions under paragraph (2) and paragraph (3), the Minister shall render a decision on:
 - a. the amount of the provisional Safeguard Duty; and
 - b. the duration for the imposition of the provisional Safeguard Duty.
- (5) The duration of the imposition of the provisional Safeguard Duty mentioned in paragraph (4) letter b shall not exceed 200 (two hundred) days since the date of its imposition.
- (6) The Minister shall convey the decision as taken under paragraph (4) to the minister in charge of finance within a maximum period of 30 (thirty) working days since date of KPPI's recommendation.
- (7) Based on the Minister's decision as mentioned in paragraph (4), the minister in charge of finance shall issue a decree containing tariff rate and the duration for the imposition of the provisional Safeguard Duty within a maximum period of 30 (thirty) working days since the date of the letter from the Minister was received by the minister in charge of finance.
- (8) The decision as mentioned in paragraph (7) shall take into account the convenience in conducting the collection of the provisional Safeguard Duty.
- (9) The time period of the imposition of the Provisional Safeguard Duty as mentioned in paragraph (4) letter b shall be calculated in the overall period of Safeguard Measure, including any extension thereof.

Article 82

- (1) KPPI shall notify the imposition of provisional Safeguard Measure as mentioned in Article 81 paragraph (7) to the petitioners or the Domestic Industry, and the associations of importers.
- (2) The implementing regulation concerning the procedure of notification as mentioned in paragraph (1) shall be regulated further in Decree of Minister of Trade.

Article 83

- (1) If the final report on the result of the investigation contain evidences of the existence of increased imports that have caused Serious Injury or Threat of Serious Injury in the position of the Domestic Industry, importers that have already made the payment as mentioned in Article 80 paragraph (3) can file a written request for refund of the provisional Safeguard Duty.
- (2) The request for refund as mentioned in paragraph (1) shall be submitted to the minister in charge of finance.
- (3) The application as mentioned in paragraph (2) shall be determined within a maximum period of 30 (thirty) working days since the date of the receipt of such application.
- (4) The implementing regulation concerning the procedure for refund of Safeguard Duty as aforementioned, shall be regulated further in decree of the minister in charge of finance.

**Part Five
Imposition of Safeguard Measure****Article 84**

- (1) To secure relevant considerations in light of national interests, the Minister shall convey KPPI's recommendation as mentioned in Article 77 to ministers and/or heads of non-ministerial governmental institutions that are relevant to the Products Under Investigation.
- (2) The ministers and/or the heads of non-ministerial governmental institutions as mentioned in paragraph (1) shall provide its considerations within a maximum period of 14 (fourteen) working days since the date of the Minister's letter requesting for such considerations.
- (3) If during the period of 14 (fourteen) working days as mentioned in paragraph (2), the ministers and/or the heads of non-ministerial governmental institutions do not provide any consideration whatsoever, the said ministers and/or the heads of non-ministerial governmental institutions shall be deemed to have agreed with KPPI's recommendations.
- (4) Based on KPPI's recommendation as mentioned in Article 77, and taking into account the provisions under paragraph (2) and paragraph (3), the Minister shall render a decision on:
 - a. the amount of the Safeguard Duty and/or Quota; and
 - b. the duration for the imposition of the Safeguard Duty and/or Quota.
- (5) The Minister shall convey the decision as taken under paragraph (4) to the minister in charge of finance within a maximum period of 30 (thirty) working days since date of KPPI's recommendation.

- (6) In cases where the Safeguard Measure is the imposition of Safeguard Duty, the minister in charge of finance shall issue a decree containing tariff rate and the duration for the imposition of the Safeguard Duty in accordance with the decision of the Minister as mentioned in paragraph (4) within a maximum period of 30 (thirty) working days since the date of the letter from the Minister was received by the minister in charge of finance.
- (7) The decision as mentioned in paragraph (6) shall take into account the convenience in conducting the collection of the provisional Safeguard Duty.
- (8) KPPI shall notify the imposition of Safeguard Measure to the petitioners or the Domestic Industry, and the associations of importers.
- (9) The implementing regulation concerning the procedure of notification as mentioned in paragraph (8), shall be regulated further in decree of the Minister of Trade.

Article 85

In circumstances where there is a difference between the applicable rate of provisional Safeguard Duty as mentioned in Article 81 paragraph (7) and the rate of Safeguard Duty as mentioned in article 84 paragraph (6), the following prevails:

- a. the excess in the payment of such provisional Safeguard Duty is not subject to any request for refund; or
- b. the deficit in the payment of such provisional Safeguard Duty shall not be claimed against importers.

Article 86

- (1) Safeguard Measure shall only be applied for such period of time as may be necessary to remedy or to prevent Serious Injury or Threat of Serious Injury, and to facilitate adjustment needed for the Domestic Industry suffering from Serious Injury or Threat of Serious Injury.
- (2) The period of imposition period of the Safeguard Measure as mentioned in paragraph (1) shall not exceed 4 (four) years.
- (3) The period of imposition period of the Safeguard Measure as mentioned in paragraph (2) can be extended for an additional period of 4 (four) years at maximum.
- (4) The period of imposition of the Safeguard Measure as mentioned in paragraph (3) may be extended for an additional period of 2 (two) years at maximum.

Article 87

- (1) Should the period of imposition of the Safeguard Measure as mentioned in Article 84 paragraph (6) exceeds 3 (three) years, KPPI shall undertake a review upon the Safeguard Measure as imposed no later than the mid-term of the period of imposition.
- (2) In consideration of the result of such mid-term review as mentioned in paragraph (1), KPPI may propose a recommendation to the Minister:
 - a. to terminate the imposition of such Safeguard Measure; or
 - b. to reduce the rate of Safeguard Duty and/or to increase the amount of Quota.
- (3) To secure relevant considerations in light of national interests, the Minister shall convey KPPI's recommendation as mentioned in paragraph (2) to ministers and/or heads of non-ministerial governmental institutions that are relevant to the Products Under Investigation.

- (4) The ministers and/or the heads of non-ministerial governmental institutions as mentioned in paragraph (3) shall provide its considerations within a maximum period of 14 (fourteen) working days since the date of the Minister's letter requesting for such considerations.
- (5) If during the period of 14 (fourteen) working days as mentioned in paragraph (4), the ministers and/or the heads of non-ministerial governmental institutions do not provide any consideration whatsoever, the said ministers and/or the heads of non-ministerial governmental institutions shall be deemed to have agreed with KPPI's recommendations.
- (6) Based on KPPI's recommendation as mentioned in paragraph (2), and taking into account the provisions under paragraph (4) and paragraph (5), the Minister shall render a decision:
 - a. to terminate the imposition of Safeguard Measure; or
 - b. to reduce the rate of Safeguard Duty and/or to increase the level of Quota.
- (7) The Minister shall convey the decision as taken under paragraph (6) to the minister in charge of finance within a maximum period of 30 (thirty) working days since date of KPPI's recommendation.
- (8) Based on the Minister's decision as mentioned in paragraph (7), the minister in charge of finance within a maximum period of 30 (thirty) working days since the date of the letter from the Minister was received by the minister in charge of finance, shall issue a decree pertaining:
 - a. the termination of the imposition of Safeguard Measure; or
 - b. the rate of the Safeguard Duty.
- (9) The decision as mentioned in paragraph (8) shall take into account the convenience in conducting the collection of the Safeguard Duty.
- (10) The implementing regulation concerning the procedure to undertake mid-term review as mentioned in paragraph (1), shall be regulated further in decree of the Minister of Trade.

Article 88

- (1) In circumstance in which the petitioners request for an extension in the imposition of Safeguard Measure, such a request shall be submitted with KPPI within a reasonable period of time before the expiry date of the Safeguard Measure.
- (2) If circumstances in which the petitioners request for an extension as mentioned in paragraph (1), KPPI shall undertake an investigation to prove whether or not such an extension may still be necessary.
- (3) KPPI shall recommend an extension of the Safeguard Measure to the Minister, if the extension of such Safeguard Measure is necessary to prevent or to remedy Serious Injury in the position of the Domestic Industry, and during the process of adjustment.
- (4) Based on KPPI's recommendation as mentioned in paragraph (3), the provisions of Article 84 shall apply *mutatis mutandis*.
- (5) The implementing regulation concerning the procedure to undertake mid-term review as mentioned in paragraph (1), shall be regulated further in decree of the Minister of Trade.

Article 89

- (1) Safeguard Measure may be imposed again upon the same imported products after the expiry of 2 (two) years period since the last day of imposition of the Safeguard Measure previously.
- (2) Notwithstanding the provisions of paragraph (1), a Safeguard Measure with a duration of 180 days or less may be imposed again to such imported products.

- (3) (The imposition of the Safeguard Measure as mentioned in paragraph (2) may only be conducted after the expiry of 1 (one) year period since the expiry of the period of imposition of the previous Safeguard Measure, and shall not be imposed upon the same imported products for more than twice within 5 years time period since the imposition of the Safeguard Measure applicable.
- (4) In regards to the re-imposition of Safeguard Measure, the provisions concerning the submission of application, investigation, evidence and information, and the provisions of provisional Safeguard Measure, as well as the imposition of Safeguard Measure as mentioned in Part 2, Part 3, Part 4 and Part 5 shall apply *mutatis mutandis*.
- (5) The implementing regulation concerning the re-imposition of Safeguard Measure as mentioned in paragraph (1), shall be regulated further in decree of the Minister of Trade.

Part Six
Imports from Developing Country

Article 90

Safeguard Measure shall not be imposed against the importation product originating in a developing country as long as its share of imports of the Product Under Investigation in the importing member does not exceed 3 per cent, provided that developing country members with less than 3 per cent import share collectively account for not more than 9 per cent of total imports of the Product Under Investigation.

CHAPTER V
NOTIFICATION

Article 91

The Minister shall notify the Committee on Anti-dumping Practices and the Committee on Subsidies and Countervailing Measures of the World Trade Organization concerning:

- a. periodically every 6 (six) months concerning the presence or absence of any Provisional Antidumping Measures, definitive Antidumping Measures, Provisional Countervailing Measures, and definitive Countervailing Measures; and/or
- b. for each decision to impose Provisional Antidumping Measures, definitive Antidumping Measures, Provisional Countervailing Measures, and definitive Countervailing Measures.

Article 92

- (1) The Minister shall notify the Committee on Safeguards of the World Trade Organization concerning:
 - a. the initiation of an investigation to impose Safeguard Measure;
 - b. the imposition of provisional Safeguard Measure; and
 - c. the imposition of Safeguard Measure.
- (2) The notification concerning the imposition of Provisional Safeguard Measure shall be done before the determination of the Provisional Safeguard Duty.

Article 93

The implementing regulation concerning the submission of notification with the Committee on Antidumping Practices, the Committee on Subsidies and Countervailing Measures, and the Committee on Safeguards of the World Trade Organization, shall be regulated further in decree of the Minister of Trade.

CHAPTER VI INVESTIGATING AUTHORITY

Article 94

- (1) By the operation of this Government Regulation, KADI shall be deemed to be established with the duties to handle all matters related to the efforts to overcome imports of Dumped Products and products which contain Subsidy.
- (2) KADI shall be accountable to the Minister.
- (3) In light of its duties as mentioned in paragraph (1), KADI undertakes function:
 - a. to conduct investigations on the allegation of dumping or Subsidy practices, the existence of Injury suffered by the petitioner and the existence of causal link between dumping or Subsidy and the Injury suffered by the petitioner;
 - b. to collect, examine and process all relevant evidences and information to investigation;
 - c. to make reports of the result of investigation;
 - d. to recommend the imposition of Anti-dumping Duty and/or Countervailing Duty to the Minister; and
 - e. to conduct other relevant duties as assigned by the Minister.

Article 95

- (1) By the operation of this Government Regulation, KPPI shall be deemed to be established with the task to handle matters relating to the efforts to recover Serious Injury or to prevent Threat of Serious Injury in the position of Domestic Industry resulting from increased volume of imports.
- (2) KPPI shall be accountable to the Minister.
- (3) In light of its as mentioned in paragraph (1), KPPI undertakes function:
 - a. to conduct investigations on the existence of Serious Injury or Threat of Serious Injury in the position of Domestic Industry producing Like Products or Directly Competitive Products, resulting from increased volume of imports;
 - b. to collect, examine and process all evidences and information relating to the investigation.
 - c. to make reports on the result of investigation.
 - d. to recommend the imposition of Safeguard Measure to the Minister; and
 - e. to conduct other relevant duties as assigned by the Minister.

Article 96

- (1) KADI and KPPI consist respectively of a Chairperson and a Vice Chairperson.
- (2) The Chairperson and the Vice Chairperson of KADI and KPPI is appointed and dismissed by the Minister.
- (3) The provisions concerning organisation and relevant by laws of KADI and KPPI are to be regulated in Decree of the Minister of Trade.

Article 97

KADI and KPPI in conducting their duties as mentioned in Article 94 and 95 shall be independent.

Article 98

All expenses as may be required to duly perform the task of KADI and KPPI as mentioned in Article 94 and article 95 shall be borne by the budget of the ministry in charge of trade.

CHAPTER VII DISPUTE RESOLUTION

Article 99

- (1) Any objection against the imposition of Antidumping Measures, Countervailing Measures, and Safeguard Measure can only be addressed through the Dispute Settlement Body of the World Trade Organization.
- (2) Any objection regarding the execution of Antidumping Duty, Countervailing Duty and Safeguard Duty as imposed during the importation shall be addressed in accordance to the prevailing regulations.

CHAPTER VIII OTHER PROVISIONS

Article 100

Any investigation conducted in relation to the imposition of Anti-dumping duty, Countervailing Duty or Safeguard Duty shall not impede the fulfilment of customs obligations for such imported products.

CHAPTER IX CLOSING PROVISIONS

Article 101

When this Government Regulation comes into force:

1. Government Regulation Number 34 Year 1996 regarding Antidumping Duty and Countervailing Duty (State Gazette of Republic of Indonesia Year 1996 Number 51, Supplementary State Gazette Number 3639); and
2. Presidential Decree Number 84 of 2002 concerning the Safeguard of the Domestic Industry Against the Impact of Increased Imports (State Gazette of Republic of Indonesia Year 2002 Number 133) shall be revoked and shall not remain in force.

Article 102

When this Government Regulation comes into force:

1. KADI which was established by Government Regulation Number 34 of 1996 concerning Antidumping Duty and Countervailing Duty and KPPI which was established by Presidential Decree Number 84 of 2002 concerning the Safeguard of the Domestic Industry Against the Impact of Increased Imports (shall continue its' existence and resume their duties according to this Government Regulation;
2. Every decision and activity which were carried out by KADI based on Government Regulation Number 34 Year 1996 concerning Antidumping Duty and Countervailing Duty as well as KPPI based on Presidential Decree Number 84 of 2002 concerning the Safeguard of the Domestic Industry Against the Impact of Increased Imports (shall remain legally valid; and
3. The Implementing regulations of Government Regulation Number 34 of 1996 concerning Antidumping Duty and Countervailing Duty as well as the Presidential Decree Number 84 of 2002 concerning the Safeguard of the Domestic Industry Against the Impact of Increased Imports shall continue to prevail provided that they do not contradict with or has not yet been regulated by new implementing regulations based on this Government Regulation.

Article 103

This Government Regulation shall come into force on the date of its enactment.

For the purpose of public cognizance, it is ordered that the enactment of this Government Regulation shall be placed in the State Gazette of Republic of Indonesia.

Promulgated in Jakarta
On July 4, 2011

PRESIDENT OF THE REPUBLIC OF INDONESIA

Signed

STATE GAZETTE OF REPUBLIC OF INDONESIA YEAR 2011 NUMBER 66

**ELUCIDATION
ON
GOVERNMENT REGULATION OF THE REPUBLIC OF INDONESIA
NUMBER 34 OF 2011
CONCERNING**

ANTIDUMPING MEASURES, COUNTERVAILING MEASURES, AND SAFEGUARD MEASURES

I. GENERAL ELUCIDATION

As one of the World Trade Organization Member States, which has ratified the Agreement Establishing World Trade Organization through the Law Number 7 of 1994, Indonesia is required to take an active role in creating world trade order that is fair and mutually beneficial

One of the efforts in creating such world trade order is through regulating requirements and procedures of the imposition of Antidumping Duty, Countervailing Duty and Safeguard Duty as well as their applications in the Government Regulation Number 34 of 1996 concerning Anti-dumping duties and Countervailing Duties and Presidential Decree Number 84 of 2002 concerning Safeguard Measures to Protect Domestic Industry against the impact of Increased Imports as mandated through the Law Number 10 of 1995 concerning Customs.

Regulations and procedures to impose Antidumping Duty, Countervailing Duty and Safeguard Duty are aimed to harmonize the course of investigation and implementation of Dumping, Subsidy and Safeguard cases in accordance with the prevailing international rules and also to protect Domestic Industry from Dumping and Subsidy practices, as well as the occurrence of increased imports from other states.

By the enactment of Law Number 17 of 2006 concerning the Amendment of Law Number 10 of 1995 concerning Customs and in order to ensure the quality of the course of investigation as well as the implementation in administering Anti-dumping, Subsidy and Safeguard cases, it is acknowledged that improving regulations concerning investigation procedures of Anti-dumping, Subsidy and Safeguard is needed.

This Government Regulation regulates the investigation procedures of Anti-dumping Measures, Countervailing Measures, and Safeguard Measures, the imposition procedures of Anti-dumping Duties, Countervailing Duties, and Safeguard Duties, as well as the duties and functions of the Indonesian Antidumping Committee (KADI) and Indonesian Safeguards Committee (KPPI)

II. ARTICLE BY ARTICLE

Article 1
Self Explanatory.

Article 2
Self Explanatory.

Article 3
Self Explanatory.

Article 4
Paragraph (1)
Self Explanatory.
Paragraph (2)
Self Explanatory.
Paragraph (3)

Point a

Self Explanatory.

Point b

Support to application of the Domestic Industry shall be stated in writing.

Paragraph (4)

Self Explanatory.

Paragraph (5)

Self Explanatory.

Paragraph (6)

"reasonable ground" means a ground that relates to company privacy and including cause for not making non-confidential summary.

Paragraph (7)

Self Explanatory.

Article 5

Self Explanatory.

Article 6

Paragraph (1)

Support to application of the Domestic Industry shall be stated in writing.

Paragraph (2)

Self Explanatory.

Article 7

Self Explanatory.

Article 8

Paragraph (1)

"Public notice" means publication through national mass media.

Paragraph (2)

Self Explanatory.

Paragraph (3)

Self Explanatory.

Article 9

Paragraph (1)

"date when the investigation starts" means the date of KADI's announcement and the date of publication initiating the investigation.

The 12 (twelve) months period is set in order to provide KADI with sufficient time and provide certainty for the interested parties.

Paragraph (2)

"special circumstances" means:

- force majeure
- existence of obstacles in the course of investigation

Paragraph (3)

Self Explanatory.

Paragraph (4)

Self Explanatory.

Article 10

Self Explanatory.

Article 11

Paragraph (1)

"shall request required information" means requesting explanation or information regarding the existence of the alleged Dumped Products through, inter alia, questionnaire.

Paragraph (2)

Self Explanatory.

Paragraph (3)

Self Explanatory.

Paragraph (4)

"reasonable ground" means a cause that relates to company privacy and including cause for not making non-confidential summary.

Paragraph (5)

Self Explanatory.

Paragraph (6)

Self Explanatory.

Paragraph (7)

Self Explanatory.

Paragraph (8)

Self Explanatory.

Paragraph (9)

Opportunity which is provided to the representative of consumer organization to provide information is needed when the Products Under Investigation are traded in retail

Article 12

Self Explanatory.

Article 13

Paragraph (1)

Self Explanatory.

Paragraph (2)

Point a

Self Explanatory.

Point b

Disclosure of preliminary report on investigation shall be made prior to the final determination of an investigation and shall contain essential facts obtained from the investigation that will be used as the basis for decision of the final determination.

Paragraph (3)

Self Explanatory.

Paragraph (4)

Self Explanatory.

Article 14

Self Explanatory.

Article 15

"impeding investigation" means e.g. in the event that KADI needs to clarify information and/or documents received, exporters, exporter's producers, the petitioner or the Domestic Industry or importers do not provide any opportunity to make such clarification.

Article 16

Self Explanatory.

Article 17

"relevant economic factors" may include: potential decline of sales, profit, output, market share, productivity, return on investment, capacity utilization, any other factors that affect domestic prices, magnitude of Dumping Margin, actual or potential negative effects on cashflow, inventories, employment, wages, growth, ability to raise capital or investments.

While, "other relevant factors" may include: the volume and prices of imports not sold at dumping prices, contraction in demand or changes in the patterns of consumption, developments in technology and the export performance.

Article 18

Paragraph (1)

Self Explanatory.

Paragraph (2)

Self Explanatory.

Paragraph (3)

"Considerations of national interest" means considerations of the overall interests which are directly or indirectly related with the Anti-dumping Measures, including:

- a. considerations of the existence of the petitioner's industry in the country as the party that is injured directly because of the existence of dumping that causes injury, either financially, in form of declining market share, declining number of employees, or losses etc;
- b. consideration of the impact of the Anti-dumping Measures to users' industries in the country in accordance to the interest of developing national industry, national food security and food prices stability, increasing employment, fiscal policy, etc.

The process of considering the national interest shall be done by the Minister after receiving recommendation to impose Anti-dumping Measure from KADI. The minister shall discuss the recommendation which involves ministers and/or heads of non-ministerial government institutions that are related to the policy of Anti-dumping Measures

Paragraph (4)

Self Explanatory.

Paragraph (5)

Self Explanatory.

Paragraph (6)

Self Explanatory.

Paragraph (7)

Self Explanatory.

Paragraph (8)

Self Explanatory.

Paragraph (9)

Consideration of the convenience of conducting the collection in this paragraph shall not reduce the obligation of the minister in charge of finance to determine the tariff rate and the time period of the imposition of the Provisional Anti-dumping Duty within the determined time limit.

Article 19

Self Explanatory.

Article 20

Self Explanatory.

Article 21

Self Explanatory.

Article 22

Paragraph (1)

Self Explanatory.

Paragraph (2)

Point a

Self Explanatory.

Point b

Disclosure of preliminary report on investigation shall be made prior to the final determination of an investigation and shall contain essential facts obtained from the investigation that will be used as the basis for decision of the final determination.

Paragraph (3)

Self Explanatory.

Paragraph (4)

Provisional Measures shall not be applied in case when the Undertaking Measure is agreed upon.

Article 23

Self Explanatory.

Article 24

Point a

The determination on when the importation of the product is being made is counted since the date of the customs declaration of import of such products.

Point b

Self Explanatory.

Article 25

Paragraph (1)

"Considerations of national interest" means considerations of the overall interests which are directly or indirectly related with the Antidumping Measures, including:

- a. considerations of the existence of the petitioner's industry in the country as the party that is injured directly because of the existence of dumping that causes injury, either financially, in form of declining market share, declining number of employees, or losses etc;
- b. consideration of the impact of the Anti-dumping Measures to users' industries in the country in accordance to the interest of developing national industry, national food security and food prices stability, increasing employment, fiscal policy, etc.

The process of considering the national interest shall be done by the Minister after receiving recommendation to impose Anti-dumping Measure from KADI. The minister shall discuss the recommendation which involves ministers and/or heads of non-ministerial government institutions that are related to the policy of Anti-dumping Measures

Paragraph (2)

Self Explanatory.

Paragraph (3)

Self Explanatory.

Paragraph (4)

Self Explanatory.

Paragraph (5)

Self Explanatory.

Article 26

Self Explanatory.

Article 27

Paragraph (1)

Self Explanatory.

Paragraph (2)

Consideration of the convenience of conducting the collection in this paragraph shall not reduce the obligation of the minister in charge of finance to determine the tariff rate and the time period of the imposition of the Anti-dumping Duty within the determined time limit.

Article 28

Self Explanatory.

Article 29

Self Explanatory.

Article 30

Self Explanatory.

Article 31
Self Explanatory.

Article 32
Self Explanatory.

Article 33
Self Explanatory.

Article 34
Self Explanatory.

Article 35
Self Explanatory.

Article 36
Self Explanatory.

Article 37
Self Explanatory.

Article 38
Self Explanatory.

Article 39

Paragraph (1)
Self Explanatory.

Paragraph (2)
Self Explanatory.

Paragraph (3)
Point a
Self Explanatory.

Point b
Support to application of the Domestic Industry shall be stated in writing.

Paragraph (4)
Self Explanatory.

Paragraph (5)
Self Explanatory.

Paragraph (6)
"reasonable ground" means a ground that relates to company privacy and including cause for not making non-confidential summary.

Paragraph (7)
Self Explanatory.

Article 40
Self Explanatory.

Article 41

Paragraph (1)
Support to application of the Domestic Industry shall be stated in writing.

Paragraph (2)
Self Explanatory.

Article 42
Self Explanatory.

Article 43

Paragraph (1)

"public notice" means publication through national mass media.

Paragraph (2)

Self Explanatory.

Paragraph (3)

Self Explanatory.

Article 44

Paragraph (1)

"date when the investigation starts" means the date of KADI's announcement and the date of publication initiating the investigation.

The 12 (twelve) months period is set in order to provide KADI with sufficient time and provide certainty for the interested parties.

Paragraph (2)

"special circumstances" means:

- force majeure
- existence of obstacles in the course of investigation

Paragraph (3)

Self Explanatory.

Paragraph (4)

Self Explanatory.

Article 45

Self Explanatory.

Article 46

Paragraph (1)

"shall request required information" means requesting explanation or information regarding the existence of alleged products which contain Subsidy through inter alia questionnaire

Paragraph (2)

Self Explanatory.

Paragraph (3)

Self Explanatory.

Paragraph (4)

"reasonable ground" means a ground that relates to company privacy and including a ground for not making non-confidential summary.

Paragraph (5)

Self Explanatory.

Paragraph (6)

Self Explanatory.

Paragraph (7)

Self Explanatory.

Paragraph (8)

Self Explanatory.

Paragraph (9)

Opportunity which is provided to representative of consumer organization to provide information is needed when the Products Under Investigation are traded in retail.

Article 47

Paragraph (1)

Self Explanatory.

Paragraph (2)

Point a

Self Explanatory.

Point b

Disclosure of preliminary report on investigation shall be made prior to final determination of an investigation and shall contain essential facts obtained from the investigation that will be used as the basis for decision of the final determination.

Paragraph (3)

Self Explanatory.

Paragraph (4)

Self Explanatory.

Article 48

Self Explanatory.

Article 49

"impeding investigation" means e.g. in the event that KADI needs to clarify information and/or documents received, exporters, exporter's producers, petitioner or Domestic Industry or importers do not provide any opportunity to make such clarification.

Article 50

Self Explanatory.

Article 51

"relevant economic factors" may include: potential decline of sales, profit, output, market share, productivity, return on investment, capacity utilization, any other factors that affect domestic prices, magnitude of Dumping Margin, actual or potential negative effects on cashflow, inventories, employment, wages, growth, ability to raise capital or investments.

While, "other relevant factors" may include: the volume and prices of imports not sold at dumping prices, contraction in demand or changes in the patterns of consumption, developments in technology and the export performance.

Article 52

Paragraph (1)

Self Explanatory.

Paragraph (2)

Self Explanatory.

Paragraph (3)

Considerations of national interest" means considerations of the overall interests which are directly or indirectly related with the Countervailing Measures, including:

- a. considerations of the existence of the petitioner industry in the country as the party that is injured directly because of the existence of products which contain Subsidy that causes injury, either financially, in form of declining market share, declining number of employees, or losses etc;
- b. consideration of the impact of the Countervailing Measures to users' industries in the country in accordance to the interest of developing national industry, national food security and food prices stability, increasing employment, fiscal policy, etc.

The process of considering the national interest shall be done by the Minister after receiving recommendation to impose Countervailing Measure from KADI. The minister shall discuss the recommendation which involves ministers and/or heads of non-ministerial government institutions that are related to the policy of Countervailing Measures

Paragraph (4)

Self Explanatory.

Paragraph (5)

Self Explanatory.

Paragraph (6)

Self Explanatory.

Paragraph (7)

Self Explanatory.

Paragraph (8)

Self Explanatory.

Paragraph (9)

Consideration of the convenience of conducting the collection in this paragraph shall not reduce the obligation of the minister in charge of finance to determine the tariff rate and the time period of the imposition of the Provisional Countervailing Duty within the determined time limit.

Article 53

Self Explanatory.

Article 54

Self Explanatory.

Article 55

Paragraph (1)

Self Explanatory.

Paragraph (2)

Point a

Self Explanatory.

Point b

Disclosure of preliminary report on investigation shall be made prior to the final determination of an investigation and shall contain essential facts obtained from the investigation that will be used as the basis decision of the final determination.

Paragraph (3)

Self Explanatory.

Paragraph (4)

Provisional Measures shall not be applied in case when the Undertaking Measure is agreed upon.

Article 56

Self Explanatory.

Article 57

Point a

The determination on when the importation of the product is being made is counted since the date of the customs declaration of import of such products.

Point b

Self Explanatory.

Article 58

Paragraph (1)

"Considerations of national interest" means considerations of the overall interests which are directly or indirectly related with the Countervailing Measures, including:

- a. considerations of the existence of the petitioner industry in the country as the party that is injured directly because of the existence of products which contain Subsidy that causes injury, either financially, in form of declining market share, declining number of employees, or losses etc ;
- b. consideration of the impact of the Countervailing Measures to users' industries in the country in accordance to the interest of developing national industry, national food security and food prices stability, increasing employment, fiscal policy, etc.

The process of considering the national interest shall be done by the Minister after receiving recommendation to impose Countervailing Measure from KADI. The minister shall discuss the recommendation which involves ministers and/or heads of non-ministerial government institutions that are related to the policy of Countervailing Measures

Paragraph (2)

Self Explanatory.

Paragraph (3)

Self Explanatory.

Paragraph (4)
Self Explanatory.

Paragraph (5)
Self Explanatory.

Article 59
Self Explanatory.

Article 60
Paragraph (1)
Self Explanatory.
Paragraph (2)

Consideration of the convenience of conducting the collection in this paragraph shall not reduce the obligation of the minister in charge of finance to determine the tariff rate and the the time period of the imposition of the Countervailing Duty within the determined time limit.

Article 61
Self Explanatory.

Article 62
Self Explanatory.

Article 63
Self Explanatory.

Article 64
Self Explanatory.

Article 65
Self Explanatory.

Article 66
Self Explanatory.

Article 67
Self Explanatory.

Article 68
Self Explanatory.

Article 69
Self Explanatory.

Article 70
Self Explanatory.

Article 71
Paragraph (1)
Self Explanatory.
Paragraph (2)
Products Under Investigation shall include industrial products, agricultural products, maritime products, fishery products, forestry products and mining products.

Article 72
Paragraph (1)
"Other domestic parties" mean government institutions and/or regional governments which are associated with the Products Under Investigation, the Like Products or the Directly Competitive

Products.

Paragraph (2)

Self Explanatory.

Paragraph (3)

Self Explanatory.

Paragraph (4)

Self Explanatory.

Paragraph (5)

Self Explanatory.

Paragraph (6)

Self Explanatory.

Article 73

Self Explanatory.

Article 74

Paragraph (1)

Public notice regarding the initiation of an investigation may be announced through official press release or publication in national newspapers.

Paragraph (2)

Self Explanatory.

Paragraph (3)

Self Explanatory.

Article 75

"all relevant factors of an objective and quantifiable nature having a bearing on the situation of the Domestic Industry" may include: increase in imports, share of domestic market taken by increased imports, changes in the level of sales, production, productivity, capacity utilization, profits and losses, and employment.

Article 76

Self Explanatory.

Article 77

Self Explanatory.

Article 78

Paragraph (1)

"request the provision of information" means requesting explanations, information, evidence, or other things related to the investigation.

"relevant interested parties" means domestic or foreign parties related to the Product Under Investigation, the Like Products, or the Directly Competitive Products.

Paragraph (2)

Self Explanatory.

Paragraph (3)

Self Explanatory.

Paragraph (4)

Self Explanatory.

Article 79

Paragraph (1)

"Other interested parties" means other parties aside from exporters, exporter's producers, the petitioners, importer and the government of particular exporting countries, which based on KPPI's consideration, it is necessary for them to be involved in the course of an investigation, in a case per case basis.

Paragraph (2)

Self Explanatory.

Article 80

Self Explanatory.

Article 81

Paragraph (1)

"Considerations of national interest" means considerations of the overall interests which are directly or indirectly related with the Safeguard Measure, *inter alia*:

- a. considerations of the existence of the petitioner's industry in the country as the party that is injured directly because of the existence of increased imports resulting in Serious Injury or Threat of Serious Injury, either financially, in form of declining market share, declining number of employees, or losses, etc;
- b. considerations of impact of the Safeguard Measure to the users' industries in the country in accordance to the interest of developing national industry, national food security and food prices stability, increasing employment, and fiscal interests.

The process of considering the national interest shall be done by the Minister after receiving recommendation to impose Safeguard Measure from KPPI. The Minister shall discuss the recommendation which involves ministers and/or heads of non-ministerial government institutions that are related to the policy of Safeguard Measure.

Paragraph (2)

Self Explanatory.

Paragraph (3)

Self Explanatory.

Paragraph (4)

Self Explanatory.

Paragraph (5)

Self Explanatory.

Paragraph (6)

Self Explanatory.

Paragraph (7)

Self Explanatory.

Paragraph (8)

Consideration of the convenience of conducting the collection in this paragraph shall not reduce the obligation of the minister in charge of finance to determine the tariff rate and duration time of the imposition of provisional Safeguard Duty within the time limit.

Paragraph (9)

Self Explanatory.

Article 82

Self Explanatory.

Article 83

Self Explanatory.

Article 84

Paragraph (1)

"Considerations of national interest" means considerations of the overall interests which are directly or indirectly related with the Safeguard Measure, including:

- a. considerations of the existence of the petitioner's industry in the country as the party that is injured directly because of the existence of increased imports resulting in Serious Injury or Threat of Serious Injury, either financially, in form of declining market share, declining number of employees, or losses, etc;
- b. considerations of impact of the Safeguard Measure to the users' industries in the country in

accordance to the interest of developing national industry, national food security and food prices stability, increasing employment, and fiscal interests.

The process of considering the national interest shall be done by the Minister after receiving recommendation to impose Safeguard Measure from KPPI. The Minister shall discuss the recommendation which involves ministers and/or heads of non-ministerial government institutions that are related to the policy of Safeguard Measure.

Paragraph (2)

Self Explanatory.

Paragraph (3)

Self Explanatory.

Paragraph (4)

Self Explanatory.

Paragraph (5)

Self Explanatory.

Paragraph (6)

Self Explanatory.

Paragraph (7)

Consideration of the convenience of conducting the collection in this paragraph shall not reduce the obligation of the minister in charge of finance to determine the tariff rate and duration time of the imposition of provisional Safeguard Duty within the time limit.

Paragraph (8)

Self Explanatory.

Paragraph (9)

Self Explanatory.

Article 85

Self Explanatory.

Article 86

Self Explanatory.

Article 87

Paragraph (1)

Self Explanatory.

Paragraph (2)

Self Explanatory.

Paragraph (3)

"Considerations of national interest" means considerations of the overall interests which are directly or indirectly related with the Safeguard Measure, including:

- a. considerations of the existence of the petitioner's industry in the country as the party that is injured directly because of the existence of increased imports resulting in Serious Injury or Threat of Serious Injury, either financially, in form of declining market share, declining number of employees, or losses, etc;
- b. considerations of impact of the Safeguard Measure to the users' industries in the country in accordance to the interest of developing national industry, national food security and food prices stability, increasing employment, and fiscal interests.

The process of considering the national interest shall be done by the Minister after receiving recommendation to impose Safeguard Measure from KPPI. The Minister shall discuss the recommendation which involves ministers and/or heads of non-ministerial government institutions that are related to the policy of Safeguard Measure.

Paragraph (4)

Self Explanatory.

Paragraph (5)

Self Explanatory.

Paragraph (6)

Self Explanatory.

Paragraph (7)

Self Explanatory.

Paragraph (8)

Self Explanatory.

Paragraph (9)

Consideration of the convenience of conducting the collection in this paragraph shall not reduce the obligation of the minister in charge of finance to determine the tariff rate and duration time of the imposition of provisional Safeguard Duty within the time limit.

Paragraph (10)

Self Explanatory.

Article 88

Paragraph (1)

"reasonable period of time" means the request shall be filled at the latest 6 (six) months prior to the expiry of the Safeguard Measure.

Paragraph (2)

Self Explanatory.

Paragraph (3)

Self Explanatory.

Paragraph (4)

Self Explanatory.

Paragraph (5)

Self Explanatory.

Article 89

Self Explanatory.

Article 90

Self Explanatory.

Article 91

"Committee on Anti-dumping Practices" means an organ within the World Trade Organization/WTO, which monitors the implementation of WTO Agreement on Anti-dumping.

"Committee on Subsidies and Countervailing Measures" means an organ within the World Trade Organization/WTO, which monitors the implementation of WTO Agreement on Subsidies and Countervailing Measures.

Article 92

Paragraph (1)

"Committee on Safeguards" means an organ within the World Trade Organization/WTO, which monitors the implementation of WTO Agreement on Safeguards.

Paragraph (2)

Self Explanatory.

Article 93

Self Explanatory.

Article 94

Self Explanatory.

Article 95

Self Explanatory.

Article 96
Self Explanatory.

Article 97
Independent within the scope of this provision shall be understood to mean in the execution on their
investigative role.

Article 98
Self Explanatory.

Article 99
Self Explanatory.

Article 100
Self Explanatory.

Article 101
Self Explanatory.

Article 102
Self Explanatory.

Article 103
Self Explanatory.

SUPPLEMENTARY STATE GAZETTE NUMBER 5225
