

WORLD TRADE ORGANIZATION

G/ADP/N/1/JPN/2/Suppl.5
G/SCM/N/1/JPN/2/Suppl.5
7 June 2007
(07-2377)

Committee on Anti-Dumping Practices
Committee on Subsidies and Countervailing Measures

Original: English

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

JAPAN

Supplement

The following communication, dated 29 May 2007, is being circulated at the request of the Delegation of Japan.

Pursuant to Article 18.5 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade (Anti-dumping Agreement) and Paragraph 255(c) of the Report of the Working Party on the Accession of Viet Nam (WT/ACC/VNM/48), the Government of Japan wishes to notify the Committee on Anti-dumping Practices of the amended provisions of (I) the Cabinet Order Relating to Anti-Dumping Duty and (II) the Guidelines for Procedures Relating to Countervailing and Anti-Dumping Duties. These amendments were published on 31 March 2007 and 6 April 2007 respectively.

[Provisional translation]

I. CABINET ORDER RELATING TO ANTI-DUMPING DUTY (CABINET ORDER NO. 416, DECEMBER 1994)

Article 2 (paragraph 3)¹ and Article 10bis (title, paragraphs 1 and 2)² were amended as follows.³

1. Article 2

(Normal Value)

Article 2

3. Notwithstanding the provisions of the preceding paragraph, in the case where the provision of paragraph 1 of Article 8 of the Law is applied to a specified imported product of Chinese origin (hereinafter in this paragraph and in Article 10bis, excluding any product produced in the territory of Hong Kong, China and Macao, China) or of Vietnamese origin, the prices referred to in subparagraph (4) of paragraph 1⁴ may be used only in the case where the producers of the said imported product cannot show clearly that there is a fact that the market economy conditions regarding production and sale of the like product of the said imported product prevail in the industry of the country which the said imported product originates from and [the industry] which is producing the said like product (referred to in Article 10bis as "a fact that the market economy conditions regarding production and sale of a specified product prevail").

2. Article 10bis

(Presentation of evidence, etc. by producers of a specified imported product of Chinese or Vietnamese origin).

Article 10bis

1. Where an investigation on a specified imported product of Chinese or Vietnamese origin is initiated, the producers of the said imported product (hereinafter in this Article, referred simply to as "the producers") may present to the Minister of Finance in writing or orally any evidence with regard to a fact that the market economy conditions regarding production and sale of a specified product prevail, within the term under subparagraph (7) of paragraph 1 of Article 8, which is to be informed or made known to the public in accordance with paragraph 1 of the said Article. In this case, any person who intends to submit evidence in writing or to orally present it shall submit in writing as to the fact to be identified by such evidence and a request for confidential treatment, if necessary, of such evidence with the reasons therefore.

2. The Minister of Finance may, as it is found necessary during the investigation under the provision of the first sentence of the preceding paragraph, request the producers to present evidence in writing or orally with regard to a fact that the market economy conditions regarding production and sale of a specified product prevail. In this case, any person who intends to submit evidence in writing

¹ See G/ADP/N/1/JPN/2/Suppl.3, p.2.

² *Ibid.*, pp.2-3.

³ The following provisional translation contains some technical corrections to the previously notified version.

⁴ See G/ADP/N/1/JPN/2, p.49.

or to orally present it shall submit a request for confidential treatment, if necessary, of such evidence with the reasons therefore.

II. THE GUIDELINES FOR PROCEDURES RELATING TO COUNTERVAILING AND ANTI-DUMPING DUTIES

Paragraph 3⁵ was amended as follows.⁶

[Provisional translation]

3. A fact that the market economy conditions regarding production and sale of a specified product prevail.

(Cabinet Order Relating to Anti-Dumping Duty: Article 2, paragraph 3; Article 10*bis*, paragraphs 1 to 4).

- (1) The phrase "a fact that the market economy conditions regarding production and sale of a specified product prevail", which producers of the specified product of Chinese origin (excluding those of Hong Kong and Macao) or of Vietnamese origin shall clearly show as provided for in paragraph 3 of Article 2 of Cabinet Order Relating to Anti-Dumping Duty, contains those facts described below".
 - (i) a fact that decisions by producers regarding prices, costs, production, sales and investment are made based on market economy principles, and without significant government interference in this regard (the term "government," herein and in (iv) below, means the central government, local governments or other public organizations of the country of origin of the imported product concerned);
 - (ii) a fact that costs of major inputs (such as raw materials) reflect market prices;
 - (iii) a fact that wage rates are determined by free negotiations between labour and management;
 - (iv) a fact that means of production are not owned nor controlled by government;
 - (v) other facts as the Minister of Finance considers it appropriate for the interpretation of the phrase "a fact that the market economy conditions regarding production and sale of a specified product prevail", and notified to the producers on initiation of an investigation.
- (2) It shall be noted that paragraph 3 of Article 2 and Article 10*bis* of Cabinet Order Relating to Anti-Dumping Duty shall be effective until 10 December 2016 with regard to specified products of Chinese origin, pursuant to the conditions provided for in Section 15(d) of Protocol on the Accession of the People's Republic of China, and until 31 December 2018 with regard to specified products of Vietnamese origin, pursuant to the conditions provided for in Article 2 of Protocol on the Accession of the Socialist Republic of Viet Nam, and paragraphs 255(d) and 527 of the Report of the Working Party on the Accession of Viet Nam.

⁵ See G/ADP/N/1/JPN/2/Suppl.3, p.4.

⁶ The following provisional translation contains some technical corrections to the previously notified version.