

**NOTIFICATION OF LAWS, REGULATIONS AND  
ADMINISTRATIVE PROCEDURES RELATING  
TO SAFEGUARD MEASURES**

**SEPARATE CUSTOMS TERRITORY OF  
TAIWAN, PENGHU, KINMEN AND MATSU**

The following communication, dated 7 October 2002, has been received from the Permanent Mission of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu.

Pursuant to Article 12.6 of the Agreement on Safeguards, the Permanent Mission of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu wishes to notify the revised Rules for Handling Import Relief Cases, and the revised Rules for Handling Relief Cases Regarding Textiles and Clothing. The revised Articles are as follows:

Rules for Handling Import Relief Cases:

1. Chapter 4-1(Articles *26bis* to *26septies*), Article *28bis* newly adopted on Feb. 15,2002;
2. Article *16bis* newly adopted and Article *26quater* amended on Jul.31, 2002.
3. Article 13 amended and Article 16, 27 deleted on Sep. 14, 2002.

Rules for Handling Relief Cases Regarding Textiles and Clothing:

1. Chapter 4-1(Articles *27bis* to *27septies*) newly adopted on Feb. 15, 2002;
2. Article 13 amended and Article 28 deleted on Aug. 07, 2002.

## Rules for Handing Import Relief Cases

Promulgated on Jun.1, 1994  
Amended on Dec. 30, 1998  
Amended on Jun. 21, 2000  
Amended on Feb. 15, 2002  
Amended on Jul. 31, 2002  
Amended on Sep. 04, 2002

(In case of any discrepancy between the Chinese and English texts of these Rules, the Chinese text shall govern.)

### Chapter 1 General Provisions

#### Article 1

These Rules are prescribed in accordance with the provisions of Article 18, paragraph 3 of the Foreign Trade Act (hereafter referred to as “the Act”).

#### Article 2

The term “import relief case” as referred to herein means a case in which application has been made for investigation into the injury caused to an industry and for import relief pursuant to Article 18, Paragraph 1 of the Act.

A case of injury to the industry as referred to in the preceding paragraph is to be established, when there is an increase in the imported quantity of the product concerned, or an increase in such imports relative to domestic production, so as to cause or threaten to cause serious injury to the domestic industry producing like products or directly competitive products.

The term “serious injury” as referred to in the preceding paragraph means an obvious and comprehensive injury to the domestic industry; the term “threat of serious injury” means a serious injury not yet occurred but clearly imminent.

#### Article 3

In making a determination regarding the existence of serious injury, the amount and rate of increase in imports of the product concerned in absolute terms and relative to domestic production shall be considered altogether, and consideration shall also be given to the following factors in respect of the domestic industry concerned and changes thereof:

1. market share,
2. sales,
3. production,
4. productivity,
5. capacity utilization,
6. profits and losses,
7. employment,
8. other relevant factors.

In making a determination regarding the existence of a threat of serious injury, in addition to the factors and their trend of changes as mentioned in the preceding paragraph, the production

capacity and export capability of the major exporting countries shall be considered so as to evaluate whether the said industry is to be seriously injured if the relief measure is not adopted.

The Ministry of Economic Affairs, in determining the injury in accordance with the preceding two paragraphs, shall consider all evidence or information acquired in the investigation. When factors other than increased imports are causing injury to the domestic industry at the same time, such injury shall not be attributed to increased imports.

#### Article 4

For those import relief cases in which the existence of injury or threat thereof has been established pursuant to these Rules, the Ministry of Economic Affairs may adopt the following relief measures:

1. adjusting the tariffs,
2. imposing import quotas,
3. providing financing guarantee, subsidy for technological research and development, assistance for changing the line of business, professional training or other adjustment measures or assistance.

The measures as referred to in the sub-paragraphs 1 and 2 of Paragraph 1 shall not be adopted simultaneously.

The measure as referred to in sub-paragraph 1 of Paragraph 1 shall be implemented pursuant to the provisions of the Customs Law upon the Ministry of Finance being notified by the Ministry of Economic Affairs. The measure as referred to in sub-paragraph 2 may be implemented based on the agreement made between the Ministry of Economic Affairs and the exporting countries regarding relevant matters. The measure as referred to in sub-paragraph 3, when related to agricultural products, shall be implemented by the Council of Agriculture of the Executive Yuan. Other relief measures shall be implemented by the Ministry of Economic Affairs in conjunction with the government agencies concerned.

#### Article 5

The term “domestic industry” as referred to in these Rules means the domestic producers of like products or directly competitive products whose collective output of the products constitutes, as determined by the International Trade Commission of the Ministry of Economic Affairs (hereafter referred to as the “Commission”), a major proportion of the total domestic production of those products.

The term “like products” as referred to herein means products having the same characteristics and are composed of the same materials; the term “directly competitive products” means products which, despite the differences in their characteristics or composing materials, are directly substitutable products in terms of their utility purpose and commercial competitiveness.

#### Article 6

With respect to an import relief case, the Ministry of Economic Affairs may, upon the petition by the relevant authority, the injured domestic industry, the association representing the injured domestic industry or the relevant entities, refer the case to the Commission to proceed with the injury investigation.

## Article 7

Unless otherwise provided by these Rules, a decision of the Commission shall be taken by a majority of the attending Commissioners at a meeting attended by a majority of the Commissioners.

## Chapter 2 Petition

### Article 8

In a case of petition for import relief, the petitioner shall submit a written petition to the Ministry of Economic Affairs, setting forth the following particulars and enclosing the following relevant information:

1. proof that the petitioner meets the qualifications prescribed in Article 6;
2. a description of the imported goods:
  - (1) the name and standard classification code of the goods, tariff code, quality, specifications, usage and other characteristics;
  - (2) the country of export, country of origin, producer, exporter, and importer;
3. the facts on the industry being affected:
  - (1) the production, sales, inventory, product, price, profits and losses, capacity utilization, and employment of the domestic industry, and their changes for the most recent three years prior to the petition date;
  - (2) the quantity, price and market share of imports in the domestic market for the most recent three years prior to the petition date;
  - (3) the quantity and price of the goods imported from the major exporting countries for the most recent three years prior to the petition date;
  - (4) other information which may be used to demonstrate the fact that the industry is being affected;
4. the adjustment plan and the proposed relief measures allowing the industry to recover its competitiveness or to shift to another line of business.

The particulars and information which shall be set forth or required under sub-paragraphs 2 and 3 of the preceding paragraph may be waived, if the petitioner has justification for not being able to provide the same and the Commission has so agreed.

The adjustment plan as referred to in sub-paragraph 4 of Paragraph 1 may be submitted within 90 days of the filing of the petition.

### Article 9

Unless in any of the following situations which would cause the dismissal of the petition, the Ministry of Economic Affairs, shall, within 30 days from the day after receiving the petition, refer the import relief case to the Commission for review and decision on whether to initiate an investigation; provided, however, that the time required for the petitioner to supplement information shall not be included in the thirty-day period:

1. the petitioner is not qualified as required in Article 6; or
2. the petitioner fails to meet the requirements stipulated in Article 8, Paragraph 1, and fails to supplement data within the period as notified or fails completely to supplement the information.

Regardless of whether a decision is made to initiate an investigation or not, the Ministry of Economic Affairs shall immediately notify the petitioner and known interested parties in writing and publish such a decision in the Gazette of the Ministry of Economic Affairs.

### Chapter 3 Investigation Into Injury Caused To The Industry

#### Article 10

Where the Commission investigates into an import relief case, the Chairperson of the Commission shall designate one or two Commissioners to be responsible for handling the case and, where necessary, request the relevant agency to assign staff or commission scholars and experts in the relevant fields on a case-by-case basis to assist in the investigation.

#### Article 11

The Commission, when conducting investigation into an import relief case, shall comply with the following:

1. it shall review the information provided by the petitioner and the interested parties, and may assign staff to conduct on-site verification, and when necessary, may require the provision of additional relevant information; and
2. it shall hold hearings.

The petitioner or interested parties shall provide information according to the requirements of the Commission; if such information is not provided, the Commission may proceed to examine the case based on the information available.

#### Article 12

The Commission shall permit public access to the information provided by the petitioner or interested parties, except where a request with justification has been made for keeping the information confidential.

With respect to the request for confidentiality referred to in the preceding paragraph, the Commission may require provision of a summary which can be made public; if the request for provision of a summary is refused without justification, the Commission may disregard the said information.

#### Article 13

The Commission shall give public notice in advance of the date set forth for each hearing and shall publish such notice in the government gazette or by other adequate means.

The Commission shall at the same time notify the petitioner and the known interested parties to attend the hearing.

#### Article 14

Application to attend a hearing may be submitted to the Commission in advance of the date set forth for a specific hearing. The applicant may present its substantive opinions relating to the case in writing to the Commission prior to a specific hearing.

Article 15

The Commission may, prior to the formal holding of a specific hearing, convene a meeting relating to procedural matters to decide on the order of presentations, the time allocated to each presentation, and other relevant matters.

Each hearing shall be presided over by the one or more Commissioners designated by the Chairperson of the Commission pursuant to Article 10.

Article 16 (deleted)

Article 16*bis*

If the Commission, in its preliminary investigation of a case, determines that there is clear evidence that increased imports have caused or are threatening to cause serious injury to the domestic industry producing like products or directly competitive products, and that the situation is critical, such that delay would cause damage that would be difficult to repair, the Commission may make a proposal for a provisional increase of the tariffs before its final determination on the existence of the injury. The said proposal shall be made within 70 days from the next day following the notification by the Ministry of Economic Affairs to the petitioner on the initiation of the investigation.

The Commission shall submit, within ten days, to the Ministry of Economic Affairs the proposal referred to in the preceding paragraph for the provisional increase of tariffs. Upon the Ministry's adoption of the said proposal, the Ministry shall consult with the relevant competent authorities within ten days and then submit the proposal to Executive Yuan for approval. The implementation period shall not exceed 200 days and shall be counted in the implementation period as prescribed in Article 23.

The provisional measures referred to in the preceding paragraph shall terminate when the Ministry of Economic Affairs gives a public notice stating either that the import relief measures are applied or that the injury does not exist.

The tariffs imposed under the provisional measures may be substituted and guaranteed by government bonds or other securities approved by the Ministry of Finance of equivalent amount. When the Ministry of Economic Affairs gives a public notice that the market disruption does not exist, the tariffs collected under the provisional measures shall be refunded or the guarantees be waived. When the Ministry gives a public notice on the application of import relief measures, the tariffs imposed under the provisional measures shall be fully paid in cash and the guarantees be waived thereupon

Article 17

Having completed the investigation with respect to an import relief case, the Commission shall convene a Commissioners Meeting to decide whether the domestic industry has been injured.

The decision referred to in the preceding paragraph shall be made by at least two thirds of the attending Commissioners at a meeting attended by at least two thirds of the Commissioners.

Article 18

Unless otherwise provided in Article 19, Paragraph 1, the Commission shall make a decision as to whether the industry has been injured within 120 days from the day after the petitioner is notified of the initiation of the investigation by the Ministry of Economic Affairs.

The time limit referred to in the preceding paragraph may be extended by 60 days, if necessary, the Commission shall notify the petitioner of such extension of time and give public notice thereof.

#### Article 19

With respect to an import relief case for perishable agricultural products where the serious injury would be difficult to cure if relief measures are not adopted in time, the Ministry of Economic Affairs shall, within 20 days from the day following the receipt of the petition, refer the case to the Commission for review as to whether or not to initiate an investigation, and shall also apply Article 9 *mutatis mutandis* with respect to the procedures regarding supplementation, dismissal, notification and giving public notice.

When an investigation is to be initiated, the Commission shall make a decision as to whether the industry has been injured or not within 70 days from the day after the petitioner is notified of the initiation of the investigation by the Ministry of Economic Affairs.

The perishable agricultural products referred to in the preceding paragraph shall be determined by the competent central agricultural authority on a case-by-case basis.

#### Article 20

In respect of a decision on whether the industry has been injured, the Commission shall, within 15 days after the decision is made, prepare a letter of decision and submit to the Ministry of Economic Affairs together with an investigation report. The Ministry of Economic Affairs shall notify the petitioner of the decision in writing and publish the decision in the Gazette of the Ministry of Economic Affairs.

In case of an affirmative decision that the industry has been injured, the Commission shall, within 30 days from the date the decision is made, hold a hearing on the import relief measures it intends to adopt, and thereafter submit to the Ministry of Economic Affairs a recommendation as to whether import relief measures shall be adopted.

Whenever the Commission submits a recommendation that relief measures shall not be adopted and the Ministry of Economic Affairs finds its recommendation acceptable, the Ministry of Economic Affairs shall promptly give a public notice that no relief measure will be implemented; if the Ministry of Economic Affairs does not find its recommendation acceptable, the Ministry of Economic Affairs shall promptly order the Commission to hold a hearing within 30 days on the import relief measures to be adopted, and thereafter submit its recommendation to the Ministry of Economic Affairs.

The provisions of Articles 13 through 16 shall apply *mutatis mutandis* with respect to the procedure for holding the hearing referred to in the preceding paragraph.

#### Article 21

The Commission's recommendation to the Ministry of Economic Affairs for adopting or not adopting relief measures shall be made by at least two thirds of the attending Commissioners at a meeting attended by at least two thirds of the Commissioners.

## Chapter 4 Import Relief

### Article 22

After the Ministry of Economic Affairs has agreed to the Commission's recommendation to adopt import relief measures, it shall, except for the adoption of the relief measures as provided in Article 4, sub-paragraph 1 of Paragraph 1, which shall be dealt with in accordance with the relevant provisions of the Customs Law, decide within 60 days on the relief measures which shall be adopted *ex officio* or in consultation with the government agencies concerned; thereafter, it shall give public notice of and implement such relief measures and report to the Executive Yuan for recordal.

The Ministry of Economic Affairs may, if necessary, notify and consult with the interested countries before making the decision referred to in the preceding paragraph.

### Article 23

The implementation of import relief measures shall take into account the effect each import relief case will have on national economic interests, the rights and interests of the consumers and the relevant industries, and shall be limited to the scope of curing or preventing the injury caused to the industry by the import. The period of implementation shall not exceed 4 years.

### Article 24

If the cause for implementing import relief measures ceases to exist or if there is a change in circumstances after the implementation of the measures, the petitioner or interested parties may file a request, to the Ministry of Economic Affairs for termination or modification of the relief measures with concrete reasons and accompanied by evidence.

The request referred to in the preceding paragraph shall be submitted at the latest within 90 days prior to the expiration of the period of implementation of the measures.

With respect to the request referred to in Paragraph 1, the Commission shall conduct an investigation according to the procedure provided in Chapter III and, upon the making of a decision on whether to recommend termination or modification of relief measures, submit the recommendation to the Ministry of Economic Affairs. If the Ministry finds the Commission's recommendation to be acceptable, it shall promptly give a public notice of termination or modification of the measures.

### Article 25

If the petitioner considers that there is a need to extend the period of implementation of the import relief measures, it may petition to the Ministry of Economic Affairs within 120 days prior to the expiration of the period of implementation of the measures at the latest, for extending the relief measures with concrete reasons for the need to extend the period of implementation and a description of the said industry's adjustment performance and plan, and accompanied by evidence.

The Ministry of Economic Affairs shall, within 90 days from the date following the day on which it receives the petition for extension, make a decision as to whether the relief shall be extended, and give a public notice on the measures implemented and the period of extension. The provisions of Chapter II through IV shall apply *mutatis mutandis* with respect to the procedure for handling the same.

The extent of relief of the extended measures referred to in Paragraph 1 shall not exceed that of the original measures. The period of extension shall not exceed four years, and the extension shall be limited to one time.

#### Article 26

The Commission shall prepare an annual review report on the results and effects of the implementation of the relief measures adopted. If it believes that the cause for implementing the said measures have extinguished or that there is a change in circumstances, it shall recommend the Ministry of Economic Affairs to terminate or modify the measures. If the Ministry of Economic Affairs finds its recommendation acceptable, the Ministry of Economic Affairs shall promptly give a public notice of termination or modification of the measures.

Prior to the preparation of the annual review report, the Commission shall hold a hearing. The provisions of Articles 13 through 16 shall apply *mutatis mutandis* with respect to the procedure for holding the relevant hearing.

### Chapter 4-1 Import Relief against Products from Mainland China

#### Article 26bis

The petitions filed pursuant to Paragraph 1 of Article 18 of the Act, for the investigation on injuries to an industry and the application of import relief measures, may be specific on the products from Mainland China.

A case of injury to the industry as referred to in the preceding paragraph is to be established, when there is an increase in the imported quantity of the product from Mainland China or an increase in such imports relative to domestic production, so as to cause or threaten to cause market disruption of the domestic industry producing like products or directly competitive products.

#### Article 26ter

In making a determination regarding the existence of the market disruption of, or threat of market disruption to, the domestic industry as referred to in the preceding article, the volume of imports concerned, the effect of such imports on prices for like or directly competitive products, and the effect of such imports on the domestic industry producing like or directly competitive products in said case shall be considered together.

#### Article 26quater

If the Commission, in its preliminary investigation of a case, determines that there is clear evidence that increased imports have caused or are threatening to cause market disruption to the domestic industry producing like products or directly competitive products, and that the situation is critical, such that delay would cause damage that would be difficult to repair, the Commission may make a proposal for a provisional increase of the tariffs before its final determination on the existence of the market disruption. The said proposal shall be made within 70 days from the next day following the notification by the Ministry of Economic Affairs to the petitioner on the initiation of the investigation.

The Commission shall submit, within ten days, to the Ministry of Economic Affairs the proposal referred to in the preceding paragraph for the provisional increase of tariffs. Upon the Ministry's adoption of the said proposal, the Ministry shall consult with the relevant competent

authorities within ten days and then submit the proposal to Executive Yuan for approval. The implementation period shall not exceed 200 days and shall be counted in the implementation period as prescribed in Article 23.

The provisional measures referred to in the preceding paragraph shall terminate when the Ministry of Economic Affairs gives a public notice stating either that the import relief measures are applied or that the market disruption does not exist.

The tariffs imposed under the provisional measures may be substituted and guaranteed by government bonds or other securities approved by the Ministry of Finance of equivalent amount. When the Ministry of Economic Affairs gives a public notice that the market disruption does not exist, the tariffs collected under the provisional measures shall be refunded and/or the guarantees be waived. When the Ministry gives a public notice on the application of import relief measures, the tariffs imposed under the provisional measures shall be fully paid in cash and the guarantees be waived thereupon.

#### Article 26*quingies*

In the event that a member of the World Trade Organization (hereinafter “WTO”) deals with import relief cases relating to products imported from Mainland China and, as a result, there is a significant trade diversion to the market of this country or a threat thereof, the Commission may initiate an investigation and submit the investigation report to the Ministry of Economic Affairs.

The Ministry of Economic Affairs may consult with the interested WTO members and the relevant competent authorities in order to apply measures to the extent necessary to remedy or prevent the aforesaid trade diversion.

The measures referred to in the preceding two paragraphs shall terminate within thirty days after the causes of the trade diversion cease to exist. If there is any change of circumstances after the application of the said measure, the Commission shall, after investigation, submit a report to the Ministry of Economic Affairs to decide whether to terminate, modify or continue the measures.

#### Article 26*sexies*

In determining whether there is a significant trade diversion or a threat thereof, overall consideration shall be given to the following factors:

1. the domestic market share of the products from Mainland China;
2. the nature or level of the measures applied or to be applied by the WTO members in the cases of import relief relating to the products imported from Mainland China;
3. the quantities of products imported into Taiwan from Mainland China due to the measures mentioned in the preceding sub-paragraph;
4. the condition of demand and supply in the domestic market for the like products or directly competitive products;
5. the extent of the export of the products from Mainland China to the WTO members as referred to in sub-paragraph 2 and the trade diversion to this country.

#### Article 26*septies*

Except for Subparagraph 4 of Paragraph 1 and Paragraph 3 of Article 8 regarding the adjustment plan of the written petition and Paragraph 1 of Article 22 regarding the adoption of import relief, articles in these Rules shall be applied *mutatis mutandis* to this Chapter.

## Chapter 5 Supplement Provisions

Article 27 (deleted)

Article 28

If the Ministry of Economic Affairs shall, during the proceeding of investigation into the injury caused to the industry, find that subsidization or dumping as provided under Article 46 or Article 46-1 of the Customs Law is involved, it shall promptly notify the Ministry of Finance and the petitioner.

Article 28*bis*

The matters regarding the investigation, determination, consultation, the relief measures, etc. which are not provided for in the Act or these Rules shall be handled in accordance with the applicable international agreements and customs.

Article 29

These Rules shall be implemented from the date of promulgation.

## Rules for Handing Import Relief Cases Regarding Textiles and Clothing

Promulgated on Jun. 2, 1999  
Amended on Sept. 13, 2000  
Amended on Feb. 15, 2002  
Amended on Aug. 7, 2002

(In case of any discrepancy between the Chinese and English texts of these Rules , the Chinese text shall govern.)

### Chapter 1 General Provisions

#### Article 1

These Rules are prescribed in accordance with the provisions of Article 18, paragraph 3 of the Foreign Trade Act (hereafter referred to as "the Act").

#### Article 2

The term "textiles and clothing" as referred to herein means goods which have been so designated publicly by the Ministry of Economic Affairs pursuant to the Act.

#### Article 3

The term "import relief case regarding textiles and clothing " as referred to herein means a case for which a petition has been filed for investigation into the injury caused to an industry and for import relief pursuant to Article 18, paragraph 1 of the Act.

The establishment of a case of injury to the industry as referred to in the preceding paragraph means an increase in the imported quantities of the product concerned, resulting in the domestic industry producing the like products or directly competitive products being seriously injured or threatened thereof.

#### Article 4

The term "domestic industry" as referred to in these Rules means the domestic producers of like products or directly competitive products whose collective output of the products constitutes, as determined by the International Trade Commission of the Ministry of Economic Affairs (hereafter referred to as the "Commission"), a major proportion of the total domestic production of those products

The term "like products" as referred to herein means textiles and clothing products having the same characteristics and are composed of the same materials; the term "directly competitive products" means textiles and clothing products which, despite the differences in their characteristics, are directly substitutable textiles and clothing products in terms of their utility purpose and commercial competitiveness.

#### Article 5

The term "interested party" as referred to herein means:

1. foreign producers, foreign exporters, domestic importers or the commercial/industrial associations to which they belong as members;
2. the government or its representative(s) of the exporting countries or the countries of the origin;
3. the domestic producers of like products or directly competitive products or the commercial/industrial associations to which they belong as members;
4. other interested parties as identified by the Commission.

#### Article 6

In determining whether the domestic industry is seriously injured, overall consideration shall be given to the following factors of the injured domestic industry and the change(s) in circumstances:

1. output,
2. productivity,
3. utilization of capacity,
4. inventories,
5. market share,
6. exports,
7. wages and employment,
8. domestic prices,
9. profits and investment,
10. other related economic factors.

In making a determination regarding the existence of a threat of serious injury, the factors and their trend of changes as mentioned in the preceding paragraph shall be considered so as to evaluate whether the said industry would be seriously injured if relief measures were not adopted.

The Ministry of Economic Affairs, in determining the injury in accordance with the preceding two paragraphs, shall consider all evidence or data acquired in the investigation. When factors other than increased imports are causing injury to the domestic industry at the same time, such injury shall not be attributed to increased imports.

#### Article 7

The Ministry of Economic Affairs may adopt import quotas as relief measures if it has, pursuant to these Rules, determined that the industry has been injured in an import relief case.

Any import quota invoked pursuant to the provisions of these Rules shall be applied on a country-by-country or region-by-region basis.

#### Article 8

In applying the aforesaid import quotas on a country-by-country or region-by-region basis, overall considerations shall include:

1. sharp and substantial increases in imports, actual or imminent, from such a country/region or countries/regions;

2. a comparison of the scale of the increase as referred to in the preceding item with imports from other countries or regions and their market shares;
3. a price comparison between the imported textiles and clothing and those of the domestic industry at the same trade level.

#### Article 9

With respect to an import relief case regarding textiles and clothing, the Ministry of Economic Affairs may, upon petition by the relevant authority, the injured domestic industry, or the trade association representing the injured domestic industry or the relevant entities, hand over the case to the Commission to proceed with the investigation.

## Chapter 2 Petition

#### Article 10

In a case of petition for import relief, the petitioner shall submit a written petition to the Ministry of Economic Affairs, setting forth the following particulars and enclosing the relevant information:

1. proof that the petitioner meets the qualifications prescribed in Article 9;
2. a description of the imported textiles and clothing:
  - (1) the name and standard classification code of textiles and clothing products, tariff code, specifications and grade, main production process, composition, usage and other characteristics;
  - (2) the exporting countries, country of origin, producer, foreign exporter, and domestic importer.
3. facts of the affected industry:
  - (1) the output, productivity, utilization of capacity, inventories, export volume, price, profits and investment, wages and number of employees, inclusive of changes over the last three years prior to the petition date;
  - (2) the quantity, prices and the market share of imports in the domestic market of the said textiles and clothing products for the last three years prior to the petition date;
  - (3) the quantity and prices of the said textiles and clothing products imported from the major exporting countries for the last three years prior to the petition date;
  - (4) other information which can be used to demonstrate the fact that the industry is being affected.

The particulars and information which shall be set forth or required under sub-paragraph 2 and 3 of the preceding paragraph can be waived if the petitioner has a justification for not being able to provide the same and the Commission has so agreed.

#### Article 11

Unless any one of the following situations occur in which a petition shall be dismissed, the Ministry of Economic Affairs, shall, within 30 days from the day after receiving the petition for import relief, refer the case to the Commission for review and decision on whether to initiate an investigation; provided, however, that the time required for the petitioner to supplement information shall not be included in the 30-day period.

1. the petitioner is not qualified according to Article 9;

2. the petitioner fails to meet the requirements stipulated in Article 10, Paragraph 1, and fails to supplement data within the period as notified or fails completely to supplement the information.

Regardless of whether a decision is made to initiate an investigation or not, the Ministry of Economic Affairs shall immediately notify the petitioner and known interested parties in writing and publish such a decision in the Gazette of the Ministry of Economic Affairs.

### Chapter 3 Investigation into Injury Caused to the Industry

#### Article 12

Where the Commission investigates into an import relief case, the chairman of the Commission shall designate one or two Commissioners to be responsible for handling the case and, where necessary, request the relevant agency to assign staff or commission scholars and experts in the relevant fields on a case-by-case basis to assist in the investigation.

#### Article 13

The Commission, when conducting investigation into an import relief case, shall comply with the following rules:

1. it shall review the information provided by the petitioner and the interested parties, may assign staff to conduct on-site verification and, when necessary, may require additional provision of relevant information; and
2. it shall hold hearings.

The hearing referred to in sub-paragraph 2 of the preceding paragraph shall be presided over by the specific Commissioner designated by the Chairman of the Commission .

The petitioner or the interested parties shall provide information according to the requirements of the Commission; if such information is not provided within the specified time, the Commission may proceed to examine the case based on the information available.

#### Article 14

The petitioner and the interested parties shall indicate in writing whether or not the information they provide may be made public or shall be kept confidential; when a request for confidentiality is made, a summary which can be made public shall be provided.

If the request for confidentiality is not justified or a public summary is not provided, the Commission may disregard the said information.

When the petitioner or interested parties have made a request for confidentiality with justification, the Commission shall not disclose the said information without the approval of the petitioner or the interested parties.

#### Article 15

The Commission shall permit access to non-confidential information provided by the petitioner or interested parties.

#### Article 16

The Commission shall complete its investigation within 90 days from the day after the petitioner is notified of the initiation of investigation by the Ministry of Economic Affairs, and it shall convene a Commissioners Meeting to make a decision as to whether a case of injury shall or shall not be established.

When a decision is made that there has been injury to the industry, the Commission shall continue to make recommendations as to the nature and extent of restriction to be established and the countries/regions to which they shall be applied.

The time limit referred to in Paragraph 1 may be extended by 45 days, if necessary, and the extension shall be limited to one time; the Commission shall notify the petitioner and the known interested parties of such an extension of time and the reasons for it, and announce the same publicly.

#### Article 17

The decision referred to in the preceding Article shall be made by at least half of the attending Commissioners at a meeting attended by at least two-thirds of the total number of Commissioners.

#### Article 18

The Commission shall, within 15 days after its decision on the import relief measures is made, prepare a letter of decision and submit to the Ministry of Economic Affairs together with an investigation report. The Ministry of Economic Affairs shall notify the petitioner and the known interested parties of the decision in writing, and shall give a public notice of the decision; in case of an affirmative decision that the industry has been injured, the Ministry of Economic Affairs shall notify the known producers and exporters or the representatives of governments in those countries/regions to which the measures shall be applied.

### Chapter 4 Import Relief

#### Article 19

The adoption of import relief measures and their degree shall take into account the extent of their effect each import relief case will have on national interests, the rights and interests of the consumers and the relevant industries, and shall be limited to the extent of curing or preventing the injury caused to the industry by the imports.

#### Article 20

When the Ministry of Economic Affairs decides not to adopt any relief measures, it shall notify the petitioner and the known interested parties in writing immediately and give a public notice thereof.

#### Article 21

When the Ministry of Economic Affairs decides to adopt relief measures, it shall notify the Textiles Monitoring Body of the World Trade Organization (hereafter referred to as "TMB") in accordance with the Agreement on Textiles and Clothing and enter into consultation with those countries/regions to which the measures shall be applied.

## Article 22

The Ministry of Economic Affairs shall, after an agreement for the textiles and clothing products concerned is reached as a result of the consultation, give public notice of quota measures to be implemented and notify the TMB of the contents of the agreement within 60 days following the date of the conclusion of the agreement.

In the event that no agreement has been reached within 60 days after the date on which the request for consultations was received, the Ministry of Economic Affairs may, within 30 days upon expiration of the said period, announce the implementation of the import quotas and at the same time refer the matter to the TMB.

## Article 23

The level of such import quotas on the product as aforesaid shall be set at a level not lower than the actual level of imports or exports from the exporting countries/regions concerned during the 12-month period ending 2 months preceding the month in which the request for consultations was made.

## Article 24

In highly unusual and critical circumstances, where delay would cause damage to the domestic industry which would be difficult to cure, the Ministry of Economic Affairs may implement import quotas provisionally on the condition that the request for consultations and notification to the TMB shall be effected within no more than 5 working days after taking the action.

## Article 25

The implementation period for the import quotas shall not exceed 3 years. Provided that the textiles and clothing products concerned are not designated in Article 2 in accordance with the public notice, the said measures shall be terminated immediately.

## Article 26

If the cause for import relief ceases to exist or if there is a change in circumstances after the import quotas have been implemented for one year, the petitioner or interested parties may file a report to the Ministry of Economic Affairs for termination or modification of the relief measures with concrete reasons and accompanied by evidence.

In the event of the following situations occurring during the implementation period of the import quotas, the Ministry of Economic Affairs may, acting in an *ex officio* capacity or upon petition, terminate the said import quotas:

1. a substantial rise in the domestic prices of the textiles and clothing products concerned is caused by implementation of the import quotas,
2. the industry structure of the textiles and clothing products concerned cannot be effectively improved.

The provisions of Chapter II shall then apply *mutatis mutandis* with respect to the application procedures of the preceding paragraphs.

For any petitions submitted under Paragraph 1 and Paragraph 2, the Commission shall complete its investigation within 90 days from the day after the petitioner is notified of the initiation of the investigation by the Ministry of Economic Affairs. The time limit may be extended by 45 days,

if necessary, and the extension shall be limited to one time; the Commission shall notify the petitioner and the known interested parties of such an extension of time and the reasons for it, and announce the same publicly.

#### Article 27

During the implementation period of the subject relief, if the textiles and clothing products concerned are imported via another country/region or another method of circumvention is used, the Ministry of Economic Affairs may, acting in an *ex officio* capacity or upon petition by the petitioner and interested parties, initiate an investigation and notify the foreign exporters and domestic importers, as well as the government agency or its representative of the exporting country of the textiles and clothing products concerned, to submit explanations.

In the event that the Ministry of Economic Affairs reaches an affirmative finding from the aforesaid investigation, it may, in accordance with the result of the investigation, adjust the import quotas of the concerned countries/regions based on the quantity that is found to be of the circumvented.

Prior to the adjustment, the Ministry of Economic Affairs may enter into consultations with the said countries/regions.

For any petitions submitted under Paragraph 1, the Commission shall complete its investigation within 90 days from the day after the petitioner is notified of the initiation of the investigation by the Ministry of Economic Affairs. The time limit may be extended by 45 days, if necessary, and the extension shall be limited to one time; the Commission shall notify the petitioner and the known interested parties of such an extension of time and the reasons for it, and announce the same publicly.

### Chapter 4-1 Import Relief Regarding Textiles and Clothing from Mainland China

#### Article 27bis

The petitions filed pursuant to Paragraph 1 of Article 18 of the Act, for the investigation on injuries to the textile industry and the application of import relief measures may be specific on the textiles and clothing products from Mainland China.

A case of injury to the industry as referred to in the preceding paragraph is to be established, when there is an increase in the imported quantity of the textiles and clothing products from Mainland China or an increase in such imports relative to domestic production, so as to cause or threaten to cause market disruption of the domestic industry producing like products or directly competitive products.

#### Articles 27ter

In making a determination regarding the existence of the market disruption of, or threat of market disruption to, the domestic industry as referred to in the preceding article, the volume of imports concerned, the effect of such imports on prices for like or directly competitive products, and the effect of such imports on the domestic industry producing like or directly competitive products in said case shall be considered together.

Article 27<sup>quater</sup>

In the event that the Ministry of Economic Affairs determines to apply import relief measures in cases where a market disruption, as referred to in the preceding article, is found, it shall immediately request for a consultation with Mainland China.

Article 27<sup>quingies</sup>

Starting from the day on which the document requesting for consultation is served, the Ministry of Economic Affairs shall apply import quotas on the textiles and clothing products from Mainland China and give public notices of the said measures. Before an agreement is reached as a result of the consultation, the annual import quotas shall not exceed the total quantities, plus 7.5 percent (6 percent for wool product categories), of such products from Mainland China during the 12-month period ending 2 months preceding the month in which the document requesting for consultation was served. If the implementation period of the restriction measures is shorter than one year, the import quantities shall be calculated pro rata.

In the event an agreement is reached as a result of the consultation, the Ministry of Economic Affairs shall apply the import quotas on the textiles and clothing products from Mainland China pursuant to such agreement.

Article 27<sup>sexies</sup>

The implementation period of the import quotas as referred to in Paragraph 1 of the preceding article shall be started from the day the document requesting consultation is served to the end of the same year. If the period from the day the document requesting for consultation is served to the end of the same year is shorter than 3 months, the implementation period shall be 12 months starting from the day the document requesting for consultation is served.

The implementation period of the restriction measures, applied pursuant to Paragraph 1 of the preceding article or the preceding paragraph of this article, shall not exceed one year unless an agreement is reached as a result of the consultation.

Article 27<sup>septies</sup>

In the event a petition is filed pursuant to Article 27-1, no other petition may be filed for the same case pursuant to Article 26-1 of “Rules for Handling Import Relief Cases”.

Except for Article 8, Paragraph 2 of Article 22, and Article 23 to Article 26, articles in these Rules shall be applied *mutatis mutandis* to this Chapter.

## Chapter 5 Supplemental Provisions

Article 28 (deleted)

Article 29

The public notice to be issued in accordance with these Rules shall be published in the Gazette of the Ministry of Economic Affairs and, in addition, may be published in the daily newspaper.

Article 30

The matters regarding the investigation, determination, consultation, the relief measures, etc. which are not provided for in the Act or these Rules shall be handled in accordance with the applicable international agreements and customs.

Article 31

These Rules shall be implemented from the date of promulgation.

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