

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

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

Supplement

The following communication, dated 11 May 2005, is being circulated at the request of the Delegation of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu.

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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 abolished Rules for Handling Import Relief Cases Regarding Textiles and Clothing. The revised Articles are as follows:

Rules for Handling Import Relief Cases:

Articles 9, 13, 20 amended on 30 November 2004.

Articles 5-1, 8, 18, 20, Chapter 4-2 (Articles 26-7 to 26-15), Article 28 newly adopted and amended on 4 April 2005.

Rules for Handling Import Relief Cases Regarding Textiles and Clothing:

Article 29 amended on 17 November 2004.

Abolished on 21 April 2005.

Rules for Handling Import Relief Cases (amended on 4 April 2005)

**Article 5-1**

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

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

**Article 8**

In the 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 import and export commodity classification code of the goods, tariff code, quality, specifications, usage and other characteristics;
  - (2) the country of export, country of origin, producer, foreign exporter, and domestic importer;
3. the facts about 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 allege the fact that the industry has been 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 exempted, 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 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, and the Commission shall notify the petitioner and the known interested parties of such an extension of time and the reasons for it and give public notice thereof.

#### **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 it 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 give a public notice thereof.

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* to the procedure for holding the hearing referred to in the preceding paragraph.

### **Chapter 4-2 Import Relief against Textiles and Clothing from Mainland China**

#### **Article 26-7**

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

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

#### **Article 26-8**

A case of injury to the industry as referred to in the first paragraph of the preceding article is to be established, when there is such 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.

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 paragraph, 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 26-9**

As to cases of import relief cases against textiles and clothing from Mainland China, 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 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 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 the case of an affirmative decision that the industry has been injured, the Ministry of Economic Affairs shall notify the known Mainland China's producers and exporters, or the representatives of the government of Mainland China.

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.

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 26-10**

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 26-11**

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 26-12**

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 per cent (6 per cent 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 26-13**

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 26-14**

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

The provisions of Article 26-8 shall apply *mutatis mutandis* to the application procedures of paragraph 1.

#### **Article 26-15**

Except for Article 4, Subparagraph 4 of Paragraph 1 and Paragraph 3 of Article 8, Article 16-1, Paragraph 2 of Article 17, Article 18 to Article 26, and Article 26-1, to Article 26-6, articles in these Rules shall be applied *mutatis mutandis* to this Chapter.

#### **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 67 or Article 68 of the Customs Law is involved, it shall promptly notify the Ministry of Finance and the petitioner.

Rules for Handling Import Relief Cases Regarding Textiles and Clothing

**Abolished on 21 April 2005**

Rules for Handling Import Relief Cases (amended on 30 November 2004)

**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 give a public notice thereof.

**Article 13**

The Commission shall give public notice in advance of the date set forth for each hearing.

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

**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 give a public notice thereof.

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.

Rules for Handling Import Relief Cases Regarding Textiles and Clothing

(amended on 17 November 2004)

**Article 29** (deleted)

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