

Committee on Safeguards

NOTIFICATIONS OF LAWS, REGULATIONS AND
ADMINISTRATIVE PROCEDURES RELATING
TO SAFEGUARD MEASURES

TURKEY

The following communication, dated 27 November 1995, has been received from the Permanent Mission of Turkey.

With reference to our letter dated 15 March 1995, regarding the notification under Article 12.6 of the Agreement on Safeguards, I have the honour to enclose herewith the unofficial translation copy of the relevant Turkish Legislation covering the following decisions and regulations:

- the Council of Ministers' Decree No. 95/6814 dated 30 April 1995;
- the Council of Ministers' Decree No. 95/7432 date 24 October 1995, amending the above-mentioned Decree;
- the Regulation on the Safeguard Measures and Surveillance for imports dated 1 June 1995; and
- the Regulation dated 1 November 1995, amending the above-mentioned regulation.

UNOFFICIAL TRANSLATION

COUNCIL OF MINISTERS' DECREE NO. 95/6814 OF 30 APRIL 1995 AND
DECREE NO. 95/7432 OF 24 OCTOBER 1995 AMENDING DECREE NO. 95/6814

Decree on the Safeguard Measures and Surveillance
for Imports and the Administration of Quotas and Tariff Quotas

Objective and Scope

Article 1

This Decree includes the procedures and principles related to:

- (a) The surveillance of imports where the trend in imports of a product threatens to cause injury to the domestic producers and where the interests of the country so require.
- (b) Taking the safeguard measures required for the interests of the country where a product is imported in such increased quantities and/or on such conditions as to cause serious injury or threat of serious injury to the domestic producers producing like or directly competitive products, to remedy this serious injury or threat of serious injury, by taking the international obligations into consideration, provided that the subject measures are limited by the injury or threat of injury and they are temporary.
- (c) Quotas that can be applied in the framework of the measures to be taken based on the bilateral or multilateral preferential trade agreements or unilaterally in a manner which conforms to the provisions of the international agreements.
- (d) The use of quotas in case tariff quotas are applied for imports in the framework of the bilateral or multilateral preferential trade agreements or unilaterally according to the provisions of the international agreements.

However, the provisions of this Decree, excluding the applications for the tariff quotas, cannot be applied to textile and clothing products outside of those which were integrated into GATT 1994 in the framework of the provisions of the Agreement on Textiles and Clothing (ATC) appended to the Agreement Establishing the World Trade Organization (WTO).

Definitions and Abbreviations

Article 2

The definitions and abbreviations listed in this Decree are as follows:

- (a) Ministry: the Ministry to which the Undersecretariat of Foreign Trade is subordinated.
- (b) Undersecretariat: the Undersecretariat of Foreign Trade.
- (c) General Directorate: the Undersecretariat of Foreign Trade, General Directorate of Imports.
- (d) Committee: "The Committee for the Evaluation of Safeguard Measures and Surveillance for imports" whose formation and functions are specified in Article 4.

- (e) Tariff quotas: to make a reduction or provide an exemption on the customs duties rates for a specific quantity or value for a product or group of products.
- (f) Quotas: the quantity and/or value of imports for which permission is given for a calendar year or a set period.
- (g) Serious injury: means a significant overall impairment in the position of a domestic industry.
- (h) Threat of serious injury: means serious injury that is clearly imminent.
- (i) Domestic industry: means the domestic producers as a whole of the like or directly competitive products operating within the territory of the country, or those whose collective output of the like or directly competitive products constitutes a major proportion of the total domestic production of those products.

Authority

Article 3

The Undersecretariat of Foreign Trade has the authority for the following in this Decree:

- (a) To propose, apply and follow-up surveillance and safeguard measures and to make consultations at international level in the framework of the related legislation and to prepare texts of reconciliation agreements and to apply these texts which enter into force in conformance with the procedures.
- (b) To determine the quantities and/or values of quotas and the procedure and principles of distribution, excluding the quotas that shall be determined by the Committee which are mentioned in Article 4 of this Decree, and to issue documents with this objective and to give instructions to the institutions and organizations concerned related to the application on the required permissions.
- (c) To determine the procedures and principals for use of the tariff quotas which are opened unilaterally according to international agreements or based on the bilateral or multilateral preferential trade agreements.

The Formation and Functions of the Committee for the Evaluation of Safeguard Measures and Surveillance for Imports

Article 4

The "Committee for the Evaluation of Safeguard Measures and Surveillance for Imports" has been established with this Decree. The Committee, under the chairmanship of the General Director of imports or a Deputy General Director who shall be charged with the duty, is composed of one of each authorized representative of the Ministry of Industry and Trade, the Undersecretariat of the State Planning Organization, the Undersecretariat of Customs, the Union of the Chambers of Commerce, Industry, Maritime Trade and Commodity Exchanges of Turkey together with the General Directorates of Exports, the European Union and Agreements and the related Head of the Department of the General Directorate of Imports. The Chairman of the Committee may summon to the Committee meetings the related experts for consultation according to the nature of the subject.

The Secretarial services of the Committee are carried out by the Undersecretariat (General Directorate of Imports).

The Committee makes a decision on the subject of surveillance and safeguard measures for imports upon the proposal of the Undersecretariat (General Directorate of Imports).

The functions of the Committee are to make decisions on the following matters:

- (a) To initiate or not to initiate investigations, to extend or not to extend the period of investigations.
- (b) To continue or to terminate the investigations in case the application is withdrawn during the period of investigation.
- (c) To take or not to take measures by evaluating the results of the investigations and in case measures are adopted, to determine the principles related to the import of the goods and the quantities and/or values.
- (d) To take measures in critical circumstances.
- (e) To review, continue, change or abolish the measures adopted previously and to extend the period of the measures in force in conditions where it is required.
- (f) To evaluate the proposals to be made on this subject by the Undersecretariat (General Directorate of Imports) in cases where it is necessary to lodge a security for the documents that shall be issued on behalf of the importers in the allocation of quotas that shall be made in the framework of this Decree.

Determination and Evaluation of Serious Injury or Threat of Serious Injury

Article 5

In determining and evaluating serious injury or threat of serious injury, in particular the volume of imports and import price and the effect of those on the developments in economic variables such as production, utilization of capacity, inventories, sales, market share, prices, profits, return of investment capital, cash flow and employment of the domestic producers who produce like or directly competitive products shall be taken into account.

Safeguard Measures and Surveillance

Article 6

For the domestic producers who produce like or directly competitive products:

- (a) In case of importing of a product in such increased quantities and/or conditions that can cause threat of injury, the import of the product in question may be subjected to surveillance. The purpose of surveillance is aimed at following the developments in the imports of a product.
- (b) In case of importing of a product in such increased quantities and/or conditions as to cause serious injury or threat of serious injury, by taking into consideration the interests of the country, safeguard measures are applied as the result of the investigation that shall be made.
- (c) In case of importing of a product in such increased quantities and/or conditions as to cause serious injury or threat of serious injury, in critical circumstances where a delay would cause damage which would be difficult to repair, in case intervention is required for the interests

of the country, the Committee may make a decision to apply provisional measures. If the provisional measure applied shall ensure the remedy of the serious injury, it shall be applied in the form of making an increase in the customs duties of the product in question in the framework of the related legislation. In case a provisional measure is applied, the required investigations shall continue and be completed and the procedure of consultation with the concerned exporters countries may be continued.

The import of a product subject to the safeguard measures is subject to the permission of the Undersecretariat. The import of a product subject to permission is submitted to the application of a quota by making a restriction on the quantities and/or values.

Provisional Safeguard Measures

Article 7

In the framework of Article 6(c), in case provisional safeguard measure is applied to product in question in the form of making an increase in the customs duties, if at the conclusion of the investigations it is understood that it was not necessary to take safeguard measures, in the framework of the related legislation, the increased customs duties shall be reduced to the proportions prior to the application of the provisional safeguard measures and the duties that were collected previously and that are equivalent to the rate increased shall be refunded to those concerned in conformity with the provisions in the customs legislations related to the refund of customs duties collected. In case safeguard measures are adopted the duties collected shall be forfeited and paid into the budget.

Tariff Quotas

Article 8

With the tariff quotas, unilaterally in the framework of the international agreements or in accordance with the preferential trade agreements, for set quantities and/or values for a product or group of products originating in a specific country, reductions or exemptions on the customs duties rates are provided by the Council of Ministers.

Security

Article 9

A decision may be made by the Council of Ministers to take security for the documents that shall be issued on behalf of the importers for the allocations of quotas that shall be made in the framework of this Decree, upon proposal of the Committee through the Undersecretariat (General Directorate of Imports).

The security is collected by the banks in the ratio of 1 per cent of the Turkish lira equivalent price of the products in the foreign currency stated on the proforma invoice appended to the quota allocation application that shall be made by the importer to the Undersecretariat (General Directorate of Imports).

The documents which are issued on behalf of the importers on which the quotas are allocated by the Undersecretariat (General Directorate of Imports) and which are used partially or not at all, on the condition that they are not returned to the Undersecretariat (General Directorate of Imports) in the period which is determined in the regulation that shall be promulgated in the framework of this Decree, according to the provisions of the Law No. 6183 Concerning the Procedure for Collection of Public Receivables, the security shall be recorded as income to the Fund for the Encouragement of Investments and Foreign Currency Earning Services.

Publication

Article 10

The decisions of the Committee related to the initiating of investigations, termination of investigations, adopting of safeguard measures and the existing measures, which are provided for in Article 4, and the procedures and principles for distribution of quotas and application for the allocation of quotas are published in the *Official Gazette*.

Regulations

Article 11

The procedures and principles related to the application of this Decree and the work of the Committee are designated in the regulations.

Sanction

Article 12

Concerning those who behave in violation of the written commitments made in the framework of this Decree and the regulations that shall be promulgated based on this Decree, and those who act in violation of this Decree and those who use false documents in the import procedures or those who make alterations in the documents which are the basis of the import procedures, without prejudice to the provisions of the related Law, the sanctions that shall be applied and the amount which is determined for the written commitments which shall be obtained when required are determined in the principles of the regulation for registering income to the Fund for the Encouragement of Investments and Foreign Currency Earning Services.

Repeal of Decree

Article 13

The Decree No. 93/5155 dated 24.12.1993 Concerning the Safeguard Measures and Surveillance for Imports has been repealed.

Validity

Article 14

This Decree enters into force on the date of publication.

Execution

Article 15

The Prime Minister executes this Decree.

Regulations
From the Undersecretariat of Foreign Trade

REGULATION ON THE SAFEGUARD MEASURES AND
SURVEILLANCE FOR IMPORTS

PART I

OBJECTIVE AND SCOPE

Article 1

This Regulation, in accordance with the Decree No. 95/6814 of 30 April 1995 and Decree No. 95/7432 of 24 October 1995 amending Decree No. 95/6814 consists of the procedures and principles related to:

- (a) The surveillance of imports where the trend in imports of a product threatens to cause injury to the domestic producers and where the interests of the country so require.
- (b) Taking the safeguard measures required for the interests of the country where a product is imported in such increased quantities and/or conditions as to cause serious injury or threat of serious injury to the domestic producers producing like or directly competitive products, to remedy this serious injury or threat of serious injury, by taking the international obligations into consideration, provided that the subject measures are limited by the serious injury or threat of serious injury and they are temporary (excluding the textile and clothing products outside of those listed in Annex 1 that was integrated in GATT 1994).

Voluntary export restraints, orderly marketing arrangements and any other similar import or export arrangements which are prohibited by the Safeguard Agreement appended to the Agreement Establishing the World Trade Organization (WTO) shall not be applied.

PART II

DEFINITIONS AND ABBREVIATIONS

Article 2

The meaning of some of the concepts and abbreviations in this Regulation are given below:

Ministry: The Ministry to which the Undersecretariat of Foreign Trade is subordinated.

Undersecretariat: The Undersecretariat of Foreign Trade.

General Directorate: The Undersecretariat of Foreign Trade, General Directorate of Imports.

Committee: "The Committee for the Evaluation of Safeguard Measures and Surveillance for Imports" whose working principles and procedures are specified in Article 21.

Surveillance Document: A document issued or certified by the General Directorate for the import of goods subject to surveillance.

Permission Document: A document issued or certified by the General Directorate for the import of goods subject to safeguard measures in cases where the exporter country has undertaken the distribution of the quotas.

Import Licence: A document issued by the General Directorate in the framework of the provisions of the Regulation on Quotas and Tariff Quotas for the import of goods subject to a quota.

PART III

PRELIMINARY EXAMINATION AND INVESTIGATION

Article 3

Where a product is imported in such increased quantities and/or on such conditions that cause a serious injury or threat of serious injury to the domestic producers producing like or directly competitive products, the natural or legal persons concerned or the Professional Organizations or Chambers with which they are affiliated can make a written application to the General Directorate requesting an examination. The application forms, that are prepared in the framework of the criteria in Article 9/I, an example of which is given in Annex II, must be filled completely and properly.

The General Directorate, in case it is deemed necessary, can request additional information and documents at any stage of the preliminary examination and the investigation.

Where the application is withdrawn at the preliminary examination stage, the procedures are terminated by the General Directorate.

Article 4

The General Directorate makes the preliminary examination within 1 (one) month where the application stated in Article 3 is made completely and properly or in conditions where it is deemed necessary, it makes a preliminary examination on its own initiative (ex-officio). In exceptional circumstances, this period can be extended for 1 (one) month by the General Directorate.

The results of the preliminary examination are presented to the evaluation of the Committee. In the evaluation of the Committee, basically the following are taken into account:

- The import level and conditions and the import trend and the factors related to the economic and trade conditions of the subject goods.
- The measures which can be taken in the scope of this Regulation, if needed.

Article 5

(i) If the Committee decide not to initiate an investigation, the fact shall be notified in writing by the General Directorate to the applicants.

(ii) In case the Committee decides to initiate an investigation, it is announced in the *Official Gazette* by the Undersecretariat. A summary of the information that has been gathered is given in this announcement and it is requested from those concerned to inform the General Directorate in writing with the information and documents and their opinions related to the subject within a period of time that shall be determined by the Committee, to be used in the investigation.

(iii) The investigation is carried out by the General Directorate and is completed within 9 (nine) months. In exceptional circumstances, this period can be extended for 2 (two) months.

Where the application is withdrawn during the period of investigation, the subject is examined by the Committee and it may be decided to terminate the investigation.

Article 6

(i) The General Directorate can request the information and documents which are needed for the investigation from the natural and legal persons concerned and where it is deemed necessary, the accuracy of these can be checked in the presence of the persons, companies and organizations concerned.

(ii) In case it is proved that there are special reasons for giving a hearing to the natural and legal persons concerned together with the representatives of the exporter countries and that they shall be influenced by the conclusion of the investigation, by making a written request within the period stated in the announcement in the *Official Gazette*, a hearing is given by the General Directorate. Furthermore, the persons and representatives mentioned can request in writing to examine the information and where the request is deemed justified by the General Directorate, they can examine the information which is not considered to be confidential according to the provisions of Article 7.

(iii) Where it is understood that the required information cannot be obtained by the General Directorate in the anticipated period of time or that the investigation is being obstructed, the investigation is concluded within the framework of the existing data. Where it is determined by the General Directorate that the party concerned or the third persons provided faulty or incorrect information, this information is not taken into consideration.

Article 7

The information received in the scope of this Regulation cannot be used outside of the purpose for which it was requested. The information collected with a confidential nature or the information given that is stated as being confidential, cannot be revealed without the written permission from the party submitting such information and the principle of professional secrecy cannot be infringed.

Information is accepted as being confidential where its disclosure can have an adverse effect upon the supplier or the source of the information.

Requests related to keeping information confidential also indicate why the information is confidential. However, if it appears that a request for confidentiality is not warranted and if the supplier is either unwilling to make the information public or to authorize its disclosure in a generalized or summary form, the information in question may be disregarded in the investigation.

The provisions above do not prevent the use as a reference of the information gathered, to general information and in particular to the reasons on which decisions taken in the scope of this Regulation are based. Along with this, when making a reference, great care is taken for the legitimate interests of the natural and legal persons and among other things, their business secrets are not divulged.

Article 8

(i) The Committee convenes at the conclusion of the investigation and the General Directorate informs the Committee of the results of the investigation.

- (ii) If the Committee decides that there is no need for any safeguard measure or surveillance, then the investigation is terminated and the decision for termination along with a summary justification is published in the *Official Gazette* by the Undersecretariat.
- (iii) If the Committee decides to apply safeguard measures or surveillance for imports, after the decision is ratified by the Ministry it is published in the *Official Gazette* and according to the nature of the decision, the required procedures are started in the framework of the provisions in Parts IV and V.

Article 9

(i) In particular, the factors given below are taken into consideration in the examination of the trend of the imports and conditions in which they take place and at the conclusion of the imports whether or not the domestic producers experienced serious injury or whether or not there was a threat of experiencing injury:

(a) The volume of imports, whether or not there has been a significant increase either in absolute figures of imports or relative according to domestic production or consumption.

(b) Import prices, particularly whether or not there is a definite undercutting of prices compared with prices of the like or directly competitive domestically produced products.

(c) The impact on the domestic producers who produce like or directly competitive products of the development in some definite economic factors such as:

-Production

- Utilization of capacity

-Stocks

-Sales

-Market share

-Prices (depression of prices or prevention of price increases which would normally have occurred)

-Profits

-Return on capital

-Cash flow and

-Employment

(ii) In conditions where a threat of injury is alleged, the General Directorate shall also examine whether or not the alleged subject is suitable for being transformed into an actual injury. On this subject, the factors given below may be taken into consideration:

(a) The rate of increase of exports aimed at Turkey.

(b) Export capacity in the country of origin or export, as it stands or likely to be in the foreseeable future, and the likelihood that capacity will be used to export to Turkey.

PART IV

SURVEILLANCE

Article 10

(i) Where a product is imported that causes threat of injury to the domestic producers producing like or directly competitive products, and the interests of the country also necessitate it, the

import of the product in question may be subjected to surveillance by the Committee in the framework of the principles provided for in Article 11.

The purpose of surveillance is to closely monitor the developments that shall be recorded in the imports of a product and it is applied by means of the issuing of a "surveillance document". Where it is deemed necessary by the Committee, besides "prior" surveillance, to ensure the establishment of a relationship between the previous imports and the existing and probable imports of the product in question, "retrospective" surveillance can also be envisaged.

In these conditions, a registration is kept by the Undersecretariat which states that the product in question has been taken under surveillance.

(ii) The surveillance is temporary and unless otherwise decided by the Committee, the prior surveillance shall be repealed automatically at the end of the second 6 (six) month period following the 6 (six) month period in which the measures were introduced.

Article 11

(i) A product subject to surveillance can be imported where the "Surveillance Document" an example of which is shown in Annex III, is presented. The Surveillance Document, without prejudice to the other conditions envisaged in the legislation in force, is given free of charge by the Undersecretariat, for the entire quantity requested and within 5 (five) working days of receipt by the General Directorate of the properly prepared application of the importer.

As long as there is not a different provision provided for in the decision subject to surveillance, the declaration by the importer shall contain only the following:

- (a) Name of the importer, business address and import certificate number.
- (b) Description of goods.
- (c) Customs Tariffs and Statistical Position Number (CTSPN) (8 digit).
- (d) Country of origin.
- (e) Exporter country.
- (f) F.o.b./c.i.f. (cost of goods, insurance, freight) value and the quantity in units used in commerce (quantity, tons, metres, litres, etc).
- (g) Proposed date or dates and location or locations (such as port, customs) for imports.

The General Directorate may ask for additional information if it is deemed necessary.

(ii) During actual importation, a finding that the unit price at which the transaction is effected exceeds that indicated on the Surveillance Document by less than 5 per cent shall not preclude the import of the product in question. However, the General Directorate, by taking account of the nature of the products and transactions, may fix a different percentage, which does not normally exceed 10 per cent.

(iii) The Surveillance Document is valid for the period in which the arrangement related to the surveillance remains in force, as long as there is no provision in opposition to it.

- (iv) Where it is envisaged in the decision adopted in accordance with Article 10, the origin of products subject to surveillance are documented with a "certificate of origin". The presentation of a certificate of origin shall not affect other provisions concerning production of any such certificate.

PART V

SAFEGUARD MEASURES

Article 12

Where a product is imported in such increased quantities and/or on such conditions as to cause serious injury or threat of serious injury to the domestic producers producing like or directly competitive products, in cases where intervention is required for the interests of the country, as safeguard measures the Committee may:

- (a) Limit the period of validity of the Surveillance Document given in the scope of Article 11.
- (b) Make the import of the related product subject to permission by determining certain quantities and/or values where it is required. The product subject to permission can only be imported with an import licence/permit certificate that shall be issued by the Undersecretariat.

As regards Members of the WTO, the measures referred to in paragraph 1 shall be taken only in case where importation increases in such quantities and conditions as to cause, or threaten to cause, serious injury to the domestic producers.

In determining certain quantities and/or values for the import of a related product (for the establishment of a quota), the following are taken into account:

- The traditional trade flows of a product by exporter countries.
- The average level of imports over the last three representative years for which import statistics are available unless a different level is required to prevent or remedy serious injury.
- Other matters which are deemed necessary.

Where a quota is allocated among exporter countries, quota allocation may be agreed upon with the countries which have a substantial interest from the export of the product in question.

Where this is not possible, the quota is allocated among the exporter countries in proportion to their share of imports realized in the representative period for the product in question, by taking into consideration the special factors which may have affected or are affecting the trade of the product.

With the condition of taking into consideration the consultations that shall be held under the auspices of the World Trade Organization (WTO) Committee on Safeguards, if the imports made from one or more exporter countries have increased in a disproportionate percentage according to the total increase of imports of the product in the representative period concerned and if it has been the cause of serious injury, a procedure different from the procedure specified above can be determined. The period of this type of safeguard measure, including provisional measures, does not exceed 4 (four) years.

No safeguard measures are applied to a product originating in a developing country Member of the WTO as long as that country's share of the product concerned does not exceed 3 per cent, provided

that developing country Members with less than a 3 per cent import share collectively account for not more than 9 per cent of the total imports of the product concerned.

Article 13

The safeguard measures are applied for a period of time that shall be sufficient to prevent or remedy serious injury and to ensure the adjustment of the domestic industry. If the period of the safeguard measures is not extended in the framework of the second paragraph, it does not exceed 4 (four) years, including the provisional safeguard measures.

Where it is necessary to continue the safeguard measures to prevent or remedy serious injury and evidence is determined which shows that the industries concerned are adjusting, the period of the safeguard measures can be extended according to the results of a new investigation to be opened in accordance with the terms of Title III and using the same producers as the initial measures. The total application period of the safeguard measures cannot exceed 10 (ten) years.

Where quotas as a safeguard measure are applied and the duration of the measure exceeds one year, the measure must be progressively liberalized at regular intervals during the period of application to make adjustment easier. Where the duration of a measure exceeds 3 (three) years, then the condition shall be reviewed no later than the mid-term of the period of application of that measure.

The import of a product subject to safeguard measures in the scope of the Regulation, with the condition that the period of not applying a measure is at least 2 (two) years, a new safeguard measure cannot be reapplied throughout a period equal to half of the period of the measure that was applied previously.

However, if a minimum of one year has passed since the date of a safeguard measure on the import of a product entering into force and if such a safeguard measure has not been applied against the same product more than twice in the five-year period preceding the date of the measure entering into force, a safeguard measure of 180 (one hundred and eighty) days or less may be reapplied.

Article 14

Where an opinion is reached that it is necessary to have a quantitative and/or value limit as a safeguard measure as the result of the investigations by the Committee, the condition is made known within the shortest time possible to the exporter country/countries concerned and consultations are held in order to reach an agreement within 30 (thirty) days at the latest. The results of consultations are presented to the Committee and following the ratification of the Committee's Decision by the Ministry, it is put into force.

However, in cases where provisional measures are applied or if an agreement is not reached with the exporter countries within 30 (thirty) days as of the date of announcement, and if the distribution is not undertaken by the exporter countries concerned, information is given to the exporter country/countries in question and the distribution is made by the General Directorate.

Article 15

- (a) In accordance with Article 12, paragraph (a), if a decision has been made by the Committee to limit the period of validity of the Surveillance Documents, then the new periods of validity,
- (b) In accordance with Article 12, paragraph (b), where a decision is made by the Committee to apply quantitative and/or value limits (quotas) measures for imports, in the framework of the

provisions of the Regulation on Quotas and Tariff Quotas, then the necessary information,

is/are published by the Undersecretariat in the *Official Gazette*.

Article 16

In accordance with Article 14, where the application of the common solution that shall be obtained as the result of the consultations made is undertaken by the exporter country, the importer can obtain a permit from the Undersecretariat (General Directorate) for the documented quantity and/or value for which agreement has been made with the exporter or the importer can have the permit issued by the competent authorities of the exporter country certified by the Undersecretariat.

PART VI

PROVISIONAL MEASURES

Article 17

Where a product is imported in such increased quantities and/or on such conditions that cause serious injury or cause threat of serious injury to the domestic producers producing like or directly competitive products, in critical circumstances where a delay would cause injury which would be difficult to repair, and where there is obvious evidence that intervention is required for the interests of the country, provisional safeguard measures can be adopted by the Committee. Provisional measures can be in the form of:

- (a) Surveillance of imports.
- (b) Application of a provisional safeguard measure. If the provisional safeguard measure shall ensure the prevention or remedy of the injury, it shall be in the form of an increase in the customs tariffs of the product in question in the framework of the related legislation.

The period of the provisional safeguard measures in all cases shall not exceed 200 (two hundred days).

Where the provisional safeguard measures are applied, the required investigations shall be continued and completed and the pursuance of the negotiation procedure with the exporter countries concerned can be continued. The provisions in this Part do not prevent the adoption of the measures that shall be adopted in the framework of the provisions in Part IV and Part V.

PART VII

OTHER PROVISIONS

Article 18

The Surveillance Document is asked by banks at the stage of preparing the import permit and the customs authority concerned during the actual import stage.

The measures stated in Articles 10 and 12 are valid as of the date the measure enters into force. However, the measures in Articles 10 and 12 cannot be applied to the products of which customs

formalities have been completed by the relevant exporter country or entered customs prior to the date the measure enters into force.

Article 19

In accordance with Parts IV and V, during the period when the decisions related to the safeguard measures or surveillance adopted are in force, the General Directorate can summon the Committee to a meeting on its own initiative or upon a request:

- (a) To examine the impacts of the measure.
- (b) To review whether or not the application is still required.
- (c) To make a change in the nature of the measure, or
- (d) To extend the duration of the measure.

The Committee evaluates the effects and results of the measures in force at these meetings and can make a decision to continue, remove or change the application and where it is deemed necessary, to extend the duration of the measure. These decisions that are ratified by the Ministry are published in the *Official Gazette* together with a summary justification.

Article 20

The General Directorate shall be informed of:

The data related to the import of a product subject to Surveillance Documents mentioned in Part IV (commercial definition of the product, 8 digit CTSPN, quantity, price, country of origin or exporter country, etc).

- (a) By the customs authority concerned, within the first 10 (ten) days of the month following the month in which the importation was realized.
- (b) By the certificate holder and companies once every 2 (two) months as of the date of obtaining the certificate and in all cases at the termination of the validity of the certificate.

Article 21

The work of the Committee for the Evaluation of Surveillance and Safeguard Measures for Imports is carried out according to the principles and procedures mentioned below.

The Committee makes a decision upon the proposal of the General Directorate on the subject of safeguard measures and surveillance.

The Committee upon the invitation of the Chairman, convenes at the date and location stated in the invitation.

The Committee convenes with an absolute majority. Where a majority is not obtained at the first meeting, a majority is not sought at the meeting that shall be held the following day.

The Committee decisions are adopted with a majority vote of those attending the meeting. Where the votes are equal, it is accepted that the side to which the Committee Chairman gives a vote has obtained a majority.

Where it is determined that the Committee members have engaged in the types of relations in Article 245 of the Law for Legal Procedure Trials, with the parties who are the subject of the investigation, they cannot participate in the meetings.

It is mandatory that the representatives of professional organizations who are Committee members should not be a producer, exporter or importer of the like or directly competitive product that is the subject of the investigation and they should not be occupied in any manner with the trade of these products. Otherwise the provision in the paragraph above is applied.

The secretarial services of the Committee are carried out by the General Directorate.

Article 22

This Regulation does not prevent the application of:

- (a) Specific prohibitions, quantitative limits or controls on grounds of public morality, public order or public security; the protection of life and health of humans, animals or plants; the protection of national treasures possessing artistic, historic or archaeological value, or the protection of industrial and commercial property.
- (b) The transactions related to foreign exchange.
- (c) The obligations arising from international agreements.
- (d) The Import Regime Decree and Regulation and the other legislation related to imports the provisions of which are not in violation of this Regulation.

Article 23

The Undersecretariat is authorized to promulgate the Official Communiqué aimed at the application related to the matters in this Regulation.

Article 24

The Regulation for Surveillance and Safeguard Measures for Imports that was published in the No. 21843 *Official Gazette* dated 8.2.1994 has been repealed.

Article 25

This Regulation enters into force on the date of publication.

Article 26

This Regulation is executed by the Ministry to which the Undersecretariat of Foreign Trade is subordinated.

ANNEX I

LIST OF TEXTILES AND CLOTHING PRODUCTS
INTEGRATED INTO THE GATT 1994

- 530710 Yarn of jute or other textile bast fibres, single
- 530720 Yarn of jute or other textile bast fibres, multiple (folded) or cabled
- 550410 Staple fibres from viscose (uncarded or uncombed)
- 560110 Sanitary article of wadding of textile material i.e. sanitary towels, tampons
- 560121 Wadding of cotton and articles thereof, other than sanitary articles
- 560122 Wadding of man-made fibres and articles thereof, other than sanitary articles
- 560129 Wadding of other textile materials and articles thereof, other than sanitary articles
- 560130 Textile flock and dust and mill neps
- 560410 Rubber thread and cord, textile covered
 - 560500 Metallized yarn, beg textile yarn combined with metal thread, strip/powder
- ex 701910 Yarns of fibre glass
- ex 392112 Woven, knitted or non-woven fabrics, coated, covered or laminated with plastics
- ex 392113 Woven, knitted or non-woven fabrics, coated, covered or laminated with plastics
- ex 392190 Woven, knitted or non-woven fabrics, coated, covered or laminated with plastics
- ex 420212 Luggage, handbags and flatgoods with an outer surface predominantly of textile materials
- ex 420222 Luggage, handbags and flatgoods with an outer surface predominantly of textile materials
- ex 420232 Luggage, handbags and flatgoods with an outer surface predominantly of textile materials
- ex 420292 Luggage, handbags and flatgoods with an outer surface predominantly of textile materials
- 531010 Woven fabrics of jute or other textile bast fibres, unbleached
- 531090 Woven fabrics of jute or other textile bast fibres, other than unbleached
- 590110 Textile fabrics coated with gum, of a kind used for outer covers of books
- 590190 Tracing cloth; prepared painting canvas; stiffened textile fab; for hats etc.
- 590510 Linoleum, whether or not cut to shape
- 590491 Floor coverings, other than linoleum, with a base of needleloom felt non-woven
 - 590492 Floor coverings, other than linoleum, with other textile base
 - 590610 Rubberized textile adhesive tape of a width not exceeding 20 cm.
 - 590699 Rubberized textile fabrics, n.e.s.
 - 590700 Textile fab impreg. ctd. cow n.e.s.; painted canvas (e.g. theatrical scenery)
- ex 701920 Woven fabrics of fibre glass
- ex 961210 Woven ribbons, of man-made fibres, other than those measuring less than 30mm in width and permanently put up in cartridge
- 630510 Sacks and bags, for packing of goods, of jute or of other textile bast fibres
- 630900 Worn clothing and other worn articles
- ex 640610 Footwear uppers of which 50 per cent or more of the external surface area is textile material
- ex 640699 Leg warmers and gaiters of textile material
- 650100 Hat-forms, hat bodies and hoods of felt, plateaux and manchons of felt
- 650200 Hat-shapes, plaited or made by assembling strips of any material
- 660191 Other umbrella types, telescopic shaft
 - 660199 Other umbrellas
- 880400 Parachutes; their parts and accessories
- 911390 Watch straps, bands and bracelets of textile materials.
 - 610311 Men's/boys' suits, of wool or fine animal hair, knitted
 - 610312 Men's/boys' suits, of synthetic fibres, knitted
 - 610319 Men's/boys' suits, of other textile materials, knitted
- 610321 Men's/boys' ensembles, of wool or fine animal hair
 - 610322 Men's/boys' ensembles, of cotton, knitted
 - 610323 Men's/boys' ensembles, of synthetic fibres, knitted

- 610329Men's/boys' ensembles, of other textile materials, knitted
- 610811Women's/girls' slips and petticoats, of man-made fibres, knitted
- 610819Women's/girls' slips and petticoats, of other textile materials, knitted
- 621520Ties, bow ties and cravats, of man-made fibres, not knitted
- 621590Ties, bow ties and cravats, of other textile materials, not knitted
- 650300Felt hats and other felt headgear
- 650400Hats, and other headgear, plaited or made by assembling strips of any material
- 650590Hats and other headgear, knitted or made-up from lace or other textile material
- 950291 Garments for dolls

ANNEX II

APPLICATION FORM FOR SURVEILLANCE AND SAFEGUARD MEASURES FOR IMPORTS

1. It is required for the application form to be filled completely and accurately by the company/companies and if possible, it should be passed on directly to the Undersecretariat of Foreign Trade (General Directorate of Imports)¹ or through the Professional Organizations or Chambers with which the applicant is associated, together with all the documents (invoices, proposals, commercial and production statistics, capacity reports, etc).

2. In case there is confidential information in the scope of Article 7 of the Regulation on Surveillance and Safeguard Measures for imports for the information to be filled on the application form, the information in question should be given in a supplement that has a separate and confidential registration and in this situation, the application should include an explanation that shows why it is confidential and a summary of the confidential information which is not confidential.

3. The application form aims to collect the information given below.

3.1 To measure the import trend for the past five years (including the current year) of the import product for which it is desired to have a measure adopted.

3.2 To determine the development of the import price, comparatively, with the real and domestic prices.

3.3 To determine whether or not it is influential on the like or directly competitive products in the scope of serious injury by studying carefully what is stated in Article XIX of the General Agreement on Tariffs and Trade (GATT 1994) and the supplement Agreement on Safeguards of the World Trade Organization Establishing Agreement.

3.4 To establish the causality link between the imports in question and the injury that has occurred or could occur.

The information to be given on the matters stated below by the applicant and/or applicants should be given completely and accurately. In case the applicant is acting on behalf of another company and/or companies, it must be documented that the applicant is authorized on this matter.

4. Applicant

4.1 Person/persons authorized to apply

Name, title, telephone and fax numbers:

4.2 Name of company and address

4.3 Commercial Registration No.

4.4 Other producers represented by the applicant²

4.5 Share within the production of Turkey.

5. The imported product for which safeguard or surveillance is requested:

5.1 Definition (description of goods, technical characteristics, procedure of use, area, etc.)

5.2 CTSPN

¹Undersecretariat of Foreign Trade, İnönü Bulvarı, 06510 Emek/ANKARA. Fax: 0-312-212-8765.

²Where the complainants do not represent domestic production completely, then the titles, addresses, telephone and fax numbers of the other producers should be given.

- 5.3 Customs duties and other financial obligations applied for importation
- 5.4 Country/countries of origin
- 5.5 Country/countries of exporter
- 5.6 Producers and addresses in the country of origin, if available³
- 5.7 Exporters and addresses in the country of origin or export, if available³

6. Importers of the product for which it is desired to have safeguard or surveillance measures adopted.

6.1 Titles and addresses (including telephone, telex, fax)

6.2 Explain if there is a relationship of commercial interest with the exporter or country of origin.⁴

7. The information given below about the import product in question should include the last four calendar years and the present year.

7.1 The total import quantities and values if the import product that is the subject of the complaint is imported by the company/companies applying (units of measure such as tons, kg, number) should be specified.

	<u>Quantity</u>	<u>Value</u>
19..		
19..		
19..		
19..		
19..		

7.2 The total import quantities and values if the import product is imported by the company/companies who apply from the country/countries that are the subject of the complaint (it shall be filled separately for each country).

	<u>Quantity</u>	<u>Value</u>
19..		
19..		
19..		
19..		
19..		

7.3 The import prices f.o.b./c.i.f. (price + freight+insurance up to the Turkish border) of the product that is the subject of the complaint should be written separately for each country.

<u>Countries</u>	<u>19..</u>	<u>19..</u>	<u>19..</u>	<u>19..</u>	<u>19..</u>
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8. The domestic like or directly competitive product which is stated to have been confronted with a threat of injury or has received injury from imports.⁵

Definition
CTSPN

³The addresses should be written clearly and the telephone, telex and fax numbers should be given.
⁴Situations where there is a shared interest or similar arrangement with the exporter country or the exporters should be explained.
⁵If the application concerns more than one company or if there are companies that are represented, the information should be given separately on the basis of companies.

Technical characteristics
Area of use

8.1 Cost

Industrial cost

Commercial cost

19..
19..
19..
19..
19..

8.2 Internal market sales price (commercial cost + profit)

Internal market sales price

19..
19..
19..
19..
19..

9. The price difference between the import product and the domestic like or directly competitive product (it should be stated as ex-factory or on the basis of sales price).⁶

Price of domestic product

Price of import product Difference

19..
19..
19..
19..
19..

10. The domestic product that is stated to have received injury from imports.

10.1 Total production quantity in Turkey and on a company basis (number, tons, kg, etc.).

Total production in Turkey

Company production

19..
19..
19..
19..
19..

10.2 Production capacity in Turkey (a capacity report should be appended).

Total production capacity

Company production

⁶If the application concerns more than one company or if there are companies that are represented, the information should be given separately on the basis of companies.

in Turkey

capacity

19..
19..
19..
19..
19..

10.3 Rates of utilization of the total production capacity in Turkey and on a company basis.

<u>Rate of utilization of</u>	<u>Rates of utilization of total</u>
<u>production capacity (%)</u>	<u>production capacity in Turkey (%)</u>

19..
19..
19..
19..
19..

10.4 Export of the company on the basis of the product that is the subject of the complaint.

<u>Quantity</u>	<u>Value</u>
-----------------	--------------

19..
19..
19..
19..
19..

10.5 Stock of domestic product which received injury from imports.

<u>Stock amount at start of period</u>	<u>Stock amount at end of period</u>
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19..
19..
19..
19..
19..

11. Detailed presentation of incentives (if any) related to the domestic product that is stated to have been confronted with a threat of injury or received injury from imports.

<u>Value</u>	<u>Type of incentive</u> <u>(export-investment, etc.)</u>
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19..
19..
19..
19..
19..

19..

19..

17. The capital invested by the company for production (on the basis of products if any received injury from imports).

Total capital

Rate of return
on capital (%)

19..

19..

19..

19..

19..

18. Employment on the basis of products of the domestic producers who received injury (annual documents reported to the Ministry of Finance should be appended).

Administrative personnel

Operations personnel

19..

19..

19..

19..

19..

19. If the import product causes injury to domestic production is used as a production input, the names of the sectors that use it.

1.

2.

3.

20. Whether or not a significant technological change was realized in the production of the domestic product that received injury from imports: whether or not measures were taken for the quality of the domestic product or improvement (rationalization) at the workplace in recent years.

21. Whether or not the producer/applicant who states that he/she suffered injury was influenced by competition among the domestic producers, if they were influenced, the reasons.

22. If there was a change in demand for the product that received injury from imports, the reasons for this and the rates of change by years.

Rates of change in demand (%)

19..

19..

19..

19..

19..

Reasons:

23. Whether or not there was a role of other factors (environmental, cyclical, etc.) outside of imports on the domestic product that is the subject of the complaint receiving injury.
24. Other matters that appear useful to report.

ANNEX III

Surveillance Document

1. Applicant (name, full address, country) (Tel., fax, telex, etc.) Import Certificate No.	2. Registration No. 3. Last day of validity
4. If the importer is a representative, name address of company represented (tel., fax, telex, etc.)	5. Country of exporter
	6. Country of origin
7. Description of goods	8. Customs tariffs and statistical position no.
	9. Quantity and/or value
10. Proposed port or customs for importation	
11. Proposed date/s of importation	12. Price f.o.b./c.i.f.
13. Endorsement of the competent authorities Signature Date <p style="text-align: center;">(Stamp)</p>	

(This part will be completed by the customs authorities)

14. Total imported quantity and value		15. Date & number of Customs Entry Declaration	16. Consent by Customs Authority, signature, stamp, date
In figures	In words		
(a) Quantity			
(b) Value			
(a) Quantity			
(b) Value			
(a) Quantity			
(b) Value			
(a) Quantity			
(b) Value			

Note: Additional pages if needed should be attached to this document by the Customs Authorities.