

GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

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Committee on Anti-Dumping Practices

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Countervailing Measures

INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

LEGISLATION OF KOREA

Supplement

The following communication, dated 17 August 1992, has been received from the Permanent Mission of the Republic of Korea.

In pursuance of paragraph 6 of Article 16 of the Anti-Dumping Code and paragraph 5 of Article 19 of the Subsidies Code, the Government of the Republic of Korea is pleased to submit for the Committee's reference the amendment of the Customs Act and the Presidential Decree relevant to the Codes.

The attached texts of the Act and the Presidential Decree were revised at the end of 1990 and became effective on 1 January 1991.

The main purpose of the amendments is to make Korea's relevant laws more rational and practical in enforcing the laws without violating the GATT provisions concerned as well as to supplement technical provisions of the Presidential Decree.

In the Act, paragraph 11 of Article 10 was revised to clarify the meaning of the sentence and to rectify the statement enumerating the exceptional cases which allow retroactive imposition of Anti-Dumping Duties.

In the Presidential Decree, the legal basis for preliminary examination was more firmly established so as to clarify the investigation procedures. (Article 4:5(1))

Qualified experts may be included in the investigation team, if deemed necessary, to reinforce the investigating capability. Of course, the obligation to keep confidentiality of interested parties will be secured by the authority concerned before the experts join the team. (Article 4:5 (2))

The authority to extend the investigation period due to the complexity of the investigation, is entrusted to the Chairman of the Customs and Tariff Deliberation Committee in order to simplify investigation procedures. (Article 4:5 (12)).

A more strict discipline on the violations of undertaking and the refusal of the requests to permit verification of pertinent data is now being introduced. If the exporter does not enforce the accepted undertaking, does not submit necessary data, or does not permit the requested verification of relevant data, the Minister of Finance shall take the provisional measures on the basis of the facts available and resume the investigation on the product concerned. (Article 4:6 (6)).

The full text of the Korean Customs Act and Presidential Decree on Anti-Dumping/Countervailing Duty were submitted to Anti-Dumping/Countervailing Committee (Act: 9 October 1986, ADP/1/Add.13/Rev.1, SCM/1/Add.13/Rev.2, Presidential Decree: 17 October 1989, ADP/1/Add.13/Rev.1/Suppl.1, SCM/1/Add.13/Rev.2/Suppl.1).

In this notification, the new provisions of the Decree are underlined. In the Act, however the provisory clause "even though they were imported before the date when such measures were taken" of paragraph 11 of Article 10 was merely deleted from the previous sentence.

Thus this version should be read in conjunction with the previous Korean legislation mentioned above.

Article 4:5 (Investigation of Dumped Import and Injury to Domestic Industries, etc.)

(1) When the Minister of Finance is requested to impose an anti-dumping duty pursuant to paragraph 2 of Article 10 of the Act, the Minister shall conduct a preliminary examination, submit the result of the examination to the Customs and Tariff Deliberation Committee and have the Committee deliberate on the necessity of initiating an investigation as prescribed in paragraph 3 of Article 10 within 3 months from the receipt of the request.

(2) An investigation team composed of officials from relevant government authorities shall be organized under the Customs and Tariff Deliberation Committee to investigate allegations of dumping pursuant to paragraph 3 of Article 10. In cases where it is deemed necessary, pertinent experts may be included in the team.

(11) In the course of the investigation pursuant to paragraph 3 Article 10 of the Act. If any interested party refuses to provide or otherwise does not provide necessary information, or significantly impedes the investigation, and this investigation or verification is impossible, the Minister of Finance may decide to take anti-dumping measures on the basis of the information available.

(12) An investigation team shall complete the investigation within six months from the date of initiation pursuant to paragraph 3 of Article 10 and submit the results of the investigation to the Customs and Tariff Deliberation Committee, unless the team submits a preliminary report and the Chairman of the Committee decides to extend the investigation period due to the complexity of the investigation or a justifiable request for an extension by the interested parties.

(13) When the investigation pursuant to paragraph 3 of Article 10 is suspended or terminated, the Customs and Tariff Deliberation Committee shall report the results and the necessity of anti-dumping measures to the Minister of Finance within three months from the date of the suspension or termination.

Article 4:6 (Undertaking of Price Revision, Cessation of Export, etc.)

(6) If the exporter does not enforce the accepted undertaking pursuant to paragraph 9 of Article 10 of the Act, does not submit data pursuant to paragraph 10 of Article 10 of the Act or does not permit the requested verification of pertinent data, the Minister of Finance shall take the provisional measures on the basis of the facts available and resume the investigation on the product concerned.