

# WORLD TRADE ORGANIZATION

RESTRICTED

**G/SG/Q1/JPN/2**

23 September 1996

(96-3742)

**Committee on Safeguards**

Original: English

## NOTIFICATION OF LAWS AND REGULATIONS UNDER ARTICLE 12.6 OF THE AGREEMENT

### Replies of JAPAN<sup>1</sup> to questions posed by CANADA<sup>2</sup>

The following communication, dated 11 September 1996, has been received from the Permanent Mission of Japan.

*Q1. The notification indicates that the Ministry of Finance, the Ministry of International Trade and Industry and the other Ministries have jurisdiction as competent authorities over the product(s) concerned with safeguards. Please clarify the respective roles of these Ministries in the initiation and conduct of safeguard investigations.*

A1. The Ministry of International Trade and Industry, the Ministry of Finance and the Ministry having jurisdiction over the product concerned will make a joint decision to initiate an investigation, and they shall conduct investigations jointly and collectively.

*Q2. Is causality between an increase of imports and serious injury specifically provided for in Japanese legislation and if so, where?*

A2. As for import restriction measures, Article 2 of the "Regulations" provides that "the Minister of International Trade and Industry may provoke an import quota in the case where the importation into Japan is causing or threatening to cause serious injury to the domestic industry concerned". So a causal link between importation and serious injury etc. is specified.

As for tariff measures, in the same way as import restriction measures, Article 9.1 of the "Customs Tariff Law" provides that a tariff measure may be taken in the case where there is a fact that any product of a particular kind is being imported in increased quantities and the import of such product causes or threatens to cause serious injury to the domestic industry". So a causal link between importation and serious injury etc. is specified.

*Q3. Please indicate where the definitions of "serious injury" and "threat of serious injury" are defined in the notified laws and regulations?*

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<sup>1</sup>G/SG/N/1/JPN/2 + Corr.1

<sup>2</sup>G/SG/W/71

A3. These are not defined in the domestic legislation. However, we interpret "serious injury" and "threat of serious injury" based on the Agreement on Safeguards.

*Q4. Can provisional safeguard measures be taken and if so, under what conditions?*

A4. In Japan, provisional measures can be taken only as tariff measures. Under Paragraph 8 of Article 9 of the Customs Tariff Law, if the fact of import increase of a particular product and the fact of serious injury to a domestic industry caused by such importation are presumed based on sufficient evidence and it is deemed particularly and urgently necessary in the interest of the national economy, the Government may take tariff measures even prior to the completion of investigation in accordance with the Agreement on Safeguards.

*Q5. Article 12: Regulations to Govern Emergency Measures to be Taken in Response to an Increase in the Importation of Goods and, Articles 4 and 6: Cabinet Order Relating to Emergency Duties:*

*Can the foreign producer of a product under investigation and the national government of that producer be considered "Interested Parties" and as such participate fully in an investigation?*

A.5 Foreign producers of a product under investigation are considered interested parties, so they may submit evidence and give testimony and have access to the submissions made by other interested parties.

However we do not believe the national government of these producers has the status of "interested party".

*Q6. Judicial and/or administrative review procedures:*

*Does Japan's notified laws and regulations related to safeguard measures provide for domestic appeal/review proceedings? If so, please indicate the applicable article(s) of the relevant laws and regulations.*

A6. Japan's notified laws and regulations do not provide for domestic appeal/review proceedings specifically designed for safeguard measures.

Therefore, general procedure law for administrative disputes will be applied to such a case.