

WORLD TRADE ORGANIZATION

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Committee on Safeguards

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

KOREA

The following communication, dated 20 April 2001, has been received from the Permanent Mission of Korea.

Pursuant to Article 12.6 of the Agreement on Safeguards, the Government of Korea wishes to notify the revised Customs Act and its sub-regulations concerning safeguard measures.

THE CUSTOMS ACT

Article 65 (Subjects of Emergency Duties, etc.)

1. When it is confirmed through an investigation that increased importation of a product has caused or threatened to cause serious injury (hereinafter referred to as “serious injury” in this Article) to a domestic industry that produce the like or directly competitive products (hereinafter referred to as “domestic industry” in this Article) and when it is deemed necessary to protect the domestic industry concerned, additional duties (hereinafter referred to as “emergency duties”) can be imposed on the product concerned to the extent necessary to prevent or remedy serious injury, etc. and to facilitate adjustment (hereinafter referred to as “remedy of injury, etc.”).

2. Whether emergency duties are to be imposed and its contents shall be determined based on a review on the need to protect the domestic industry concerned, international trade relationships, levels of compensation following the imposition of emergency duties, its effect on the overall national economy, etc.

3. The Minister of Finance and Economy may have a consultation with the interested countries on appropriate trade compensation measures for adverse effects resulted from imposition of emergency duties, when imposing the emergency duties.

4. Imposition of emergency duties and provisional emergency duties under the provisions of Article 66, Paragraph 1 shall be applied to goods imported after the enforcement date of the decision for imposition respectively.

5. Duration of imposition of emergency duties shall not exceed the period of 4 years, and provisional emergency duties under the provisions of Article 66, Paragraph 1 shall not be imposed for more than 200 days. However, if the duration of imposition is extended according to the result of the review under the provisions of Article 67, the total application duration of provisional emergency duties, emergency duties, import quantity restrictions under the provisions of Article 28, Paragraph 1 of the Foreign Trade Act, etc. (hereinafter referred to as “import quantity restrictions, etc. in this Article and Article 66) including their extension period, may not exceed 8 years.

6. Goods subject to emergency duties or provisional emergency duties as referred to in Article 66, Paragraph 1, their rates, application duration, quantity, import management measures, and other necessary matters shall be prescribed by the Ordinance of the Minister of Finance and Economy.

7. The Minister of Finance and Economy may request for cooperation necessary including submission of relevant data to the head of authorities concerned, interested parties, etc. when they are deemed necessary for determining whether to impose emergency duties, or provisional emergency duties under the provisions of Article 66, Paragraph 1.

Article 66 (Imposition of Provisional Emergency Duties, etc.)

1. Provisional emergency duties can be additionally imposed within the extent necessary to remedy injury before the conclusion of investigation on products for which an investigation has been initiated to determine whether to impose emergency duties, or for which provisional measures have been proposed under the provisions of Article 29, Paragraph 1 of the Foreign Trade Act, when it is determined that injury that is difficult to remedy is to be caused or threatened to be caused unless serious injury, etc. occurring during the investigation is not prevented.

2. When determination on whether to take measures such as imposition of emergency duties or import quantity restrictions, etc. has been made, imposition of provisional emergency duties under the provisions of Article 1 shall be ceased.

3. After an investigation to determine whether to take measures such as imposition of emergency duties or import quantity restrictions, etc., when it is determined that increased importation has not caused or is not threatening to cause serious injury to a domestic industry, the provisional emergency duties paid under the provisions of Article 1 shall be refunded.

Article 67 (Review on Emergency Duties, etc.)

A review can be conducted on the determination to impose emergency duties when the Minister of Finance and Economy deems it necessary, and contents of imposition can be modified according to results of the review. In that case, the modification made shall not be stricter than the original measure taken.

Article 78 (Withdrawal and Modification of Concessions)

1. When it is deemed that increased importation of a product due to a fall in overseas prices, other unforeseen changes in circumstances, or fulfilment of contractual obligations has caused or is threatening to cause serious injury to domestic producers of the like or directly competitive products, the government may take any of the following measures:

- (1) when customs duties are bound by concessions under an Agreement, a measure imposing duties according to the rates under this Act or modified rates by withdrawing or modifying concessions on the product according to the Agreement
- (2) when intending to take the measure under Sub-paragraph (1), or when such measure has been taken, a measure modifying tariff rates for already bound products other than the product concerned or making new concessions on other items according to the Agreement concerned, and applying modified or new concession rates.

2. The measure in Sub-paragraph (2) of Paragraph 1 shall be within the extent necessary as compensation to the measure in Sub-paragraph (1) of the same Paragraph.

3. The period, contents, and other necessary matters regarding the measures under the provisions in Paragraph 1 shall be prescribed by the Presidential Decree.

Article 79 (Countermeasures)

1. In case where a foreign country intends to take a measure of withdrawing or modifying concessions on a product or other measures or where such measures have been already taken, and where countermeasures are allowed under the agreement concerned, any of the following measures can be taken.

- (1) a measure of imposing customs duties on a product within the amount equivalent to the customs value of the product other than customs duties under this Act
- (2) when a product is bound by concessions, a measure ceasing application of the concessions and imposing customs duties within the rates under this Act

2. The measures in Sub-paragraphs of Paragraph 1 shall be within the extent as necessary for countermeasures against a measure taken by a foreign country.

3. Countries subject to those measures under the provisions of Article 1, their periods, contents, and other necessary matters shall be prescribed by the Presidential Decree.

Article 80 (Effect of Concessions and withdrawals)

1. When concessions made on items under an agreement are withdrawn, the rates under this Act shall be applied from the date on which the withdrawal takes into effect under the agreement.

2. With regard to items on which new concessions were made as a compensation for withdrawal of concessions under the provisions of Article 1, the rates under this Act shall not be applied from the date on which the concessions take into effect.

**Enforcement Decree of the Customs Act
(Presidential Decree)**

Article 87 (Imposition of Emergency Duties)

A determination on whether to impose emergency duties under the provisions of Article 65, Paragraph 1 of the Act (hereinafter referred to as “emergency duties”) and on its contents shall be made within 1 month from the date on which the Trade Commission’s proposal for its imposition is made; provided that time taken to consult with main interested countries on imposition of emergency duties, etc. shall not be included.

Article 88 (Imposition of Provisional Emergency Duties, etc.)

1. A determination on whether to impose provisional emergency duties under the provisions of Article 66, Paragraph 1 of the Act (hereinafter referred to as “provisional emergency duties”) and on its contents shall be made within 1 month from the date on which the Trade Commission’s proposal for its imposition is made, taking into account matters reviewed under Article 65, Paragraph 2 of the Act. However, the determination period may be extended within the extent of 20 days, provided that the Minister of Finance and Economy deems it necessary.

2. In case where a determination is made to impose emergency duties on a product to which provisional emergency duties are being applied and where the emergency duties are higher than the provisional emergency duties, then the provisional emergency duties shall be deemed as emergency duties and the difference shall not be collected, and where the emergency duties are lower than the provisional emergency duties, then a measure refunding the provisional emergency duties equivalent to the difference shall be taken.

3. When the Trade Commission determines that there exist no injury to a domestic industry and it is informed to the Minister of Finance and Economy, a measure refunding the provisional emergency duties paid with regard to the injury concerned shall be taken.

Article 89 (Review on Emergency Duties)

When the Trade Commission requests to lower, cease, or extend, etc. the emergency duties being imposed, the Minister of Finance and Economy shall make a determination on whether to take measures such as lowering, ceasing, or extending, etc. of emergency duties after reviewing under Article 67 of the Act within 1 month from the date on which the request is received. However, the determination period can be extended within the extent of 20 days, provided that the Minister of Finance and Economy deems it necessary.

ENFORCEMENT REGULATION OF THE CUSTOMS ACT
(Ordinance of the Minister of Finance and Economy)

Article 32 (Confidential Treatment of Data relating to Emergency Duties)

1. If a person who has submitted data in accordance with the provisions of Article 65, Paragraph 7 of the Act requests to treat the data confidentially for justifiable reasons, such data shall not be disclosed without his/her express consent.
 2. Provisions of Article 15 shall be applied to the data to be treated confidentially under the provision of Paragraph 1.
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