

# WORLD TRADE ORGANIZATION

G/SG/N/1/JPN/2/Suppl.1  
9 October 2002

(02-5442)

Committee on Safeguards

Original: English

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

JAPAN

### Supplement

The following communication, dated 8 October 2002, has been received from the Permanent Mission of Japan.

Pursuant to Article 12.6 of the Agreement on Safeguards, the Government of Japan wishes to notify that the relevant articles of Cabinet Order Relating to Emergency Duties and the Regulations to Govern Emergency Measures to be taken in Response to an Increase in the Importation of Goods have been modified with regard to the procedures for safeguard investigation. The modification concerning the Cabinet Order has become effective as of 31 March 2002, upon the publication in the *Official Gazette* of the Cabinet Order No. 114 on the same day. The modification concerning the Regulations has become effective as of 1 April 2002, following the primary publication in the *Official Gazette* of the Ministry of Economy, Trade and Industry Notification No. 158 on 29 March, 2002. Relevant articles have been modified as follows:

[Provisional translation]

#### Amendments of Cabinet Order Relating to Emergency Duties

Cabinet Order Relating to Emergency Duties (Cabinet Order No. 417, December 1994) has been amended partly as follows:

In subparagraph 5 of Article 2, the terms “for seeing the evidence etc. under the provisions of paragraph 1 of Article 5, for presenting the views under the provisions of paragraph 1 of Article 6 and for presenting the information under the provisions of paragraph 1 of Article 7,” shall be amended to the terms “for presenting the views under the provisions of paragraph 1 of Article 5, for presenting the information under the provisions of paragraph 1 of Article 6 and for seeing the evidence etc., the views and the information etc. under the provisions of paragraph 1 of Article 7,” subparagraph 6 of the said Article shall be amended to subparagraph 7 of the said Article and the following subparagraph shall be added after subparagraph 5 of the said Article:

- (6) the time-limits for presenting the evidence or testifying under the provisions of paragraph 1 of Article 8, for presenting the views under the provisions of paragraph 3 of said Article and for presenting the information under the provisions of paragraph 4 of the said Article,

Article 5 shall be deleted.

In paragraph 1 of Article 6, the terms “in this Article and the following Article” shall be deleted, the terms “any representative consumer organization of such product” shall be amended to the terms “any representative consumer organization of such product (hereinafter referred to as “representative consumer organizations”)), in paragraph 2 of the said Article, the terms “of such product” shall be deleted and the said Article shall be amended to Article 5.

In paragraph 2 of Article 10, the terms “when the measure under the provisions of paragraph 8 of Article 9 of the Law is taken” shall be amended to the terms “when the measure under the provisions of paragraph 8 of Article 9 was taken”, and the said Article shall be amended to Article 12.

Article 9 shall be amended to Article 11 and Article 8 shall be amended to Article 10.

In paragraph 1 of Article 7, the terms “of the product under the investigation” shall be deleted, the second sentence of the said paragraph shall be deleted and the following sentence shall be added to the said paragraph as the second sentence.

In this case, any person who is to present the information shall present a document stating a request for confidential treatment, if necessary, of such information with the reason for that request.

In paragraph 2 of Article 7, the terms “of the product under the investigation” shall be deleted, the following sentence shall be added to the said paragraph as the second sentence and the said paragraph shall be amended to paragraph 3.

In this case, any person who is to present the information shall present a document stating a request for confidential treatment, if necessary, of such information with the reason for that request.

The following paragraph shall be added after paragraph 1 of Article 7.

2. Under the first sentence of the preceding paragraph, representative consumer organizations may provide such information only in the case where the product under investigation is commonly sold at the retail level.

The following paragraph shall be added to Article 7.

4. The provisions of paragraph 4 to 8 of Article 4 shall be applied *mutatis mutandis* to the information presented under the provisions of the first sentence of paragraph 1 or the first sentence of the preceding paragraph of this Article.

Article 7 shall be amended to Article 6 and the following three Articles shall be added thereafter.

(Evidence, etc., views and information, etc. to be seen)

Article 7. Where the investigation is initiated, the Minister of Finance shall, until the time-limit referred to in subparagraph (5) of Article 2 and notified in accordance with the provisions of the said Article, provide opportunities for the interested parties, industrial users etc. or representative consumer organizations to see evidences submitted under the provisions of the first sentence of paragraph 1 or the first sentence of paragraph 2 of Article 4 or the document which records the testimony submitted under the said provisions and other evidences (excluding evidences and documents which have been by nature warranted to be treated as confidential, evidences which have been presented as confidential as well as documents which record testimony submitted as confidential by interested parties) or summaries to be presented under the provisions of paragraphs 4 or 5 or the second sentence of paragraph 7 of the said Article (including the case where these provisions are applied *mutatis mutandis* to paragraph 9 of the

said Article) (hereinafter in this Article and the following Article referred to as "evidences, etc."), views presented under the provisions of paragraph 1 or paragraph 2 of Article 5 (hereinafter in this Article and the following Article referred to as "views") and information presented under the provisions of the first sentence of the paragraph 1 or the first sentence of paragraph 3 of the preceding Article (excluding information which have been by nature warranted to be treated as confidential, information which have been presented as confidential by industrial users etc. or representative consumer organizations ) or documents submitted under the provisions of paragraph 4, paragraph 5 and paragraph 7 of Article 4 which are applied *mutatis mutandis* under paragraph 4 of the preceding Article (hereinafter in this Article and the following Article referred to as "views, etc."). However, representative consumer organizations may see the evidences, etc., views or information, etc. only in the case where the product is commonly sold at the retail level.

2. The person, who wishes to see evidences, etc., views or information, etc. under the provisions of the preceding paragraph, shall submit to the Minister of Finance a document which contains a list of evidences, etc., views or information, etc., which that person wishes to see and the grounds on which that person fulfils to be one of the interested parties, industrial users etc. or representative consumer organizations.

(Presentation of evidence, etc., views or information on the evidence, etc., the views or the information, etc to be seen)

Article 8. Any interested party may, until the time-limit referred to in subparagraph (6) of Article 2 and notified in accordance with the provisions of the said Article, present the evidence to or testify before the Minister of Finance on the evidence, etc., views or information, etc to be seen in accordance with the provisions of paragraph 1 of the preceding Article.

2. The Minister of Finance shall, when any request to testify is made by the interested parties in accordance with the provisions of the preceding paragraph, notify in writing such interested parties of the date and time, place and other necessary matters to testify.

3. Any interested party, industrial users etc. or representative consumer organization may, until the time-limit referred to in subparagraph (6) of Article 2 and notified in accordance with the provisions of the said Article, present to the Minister of Finance in writing its views on evidence, etc., views or information, etc to be seen in accordance with the provisions of paragraph 1 of the preceding Article. However, representative consumer organizations may present their views only in the case where the product is commonly sold at the retail level.

4. Any industrial users etc. or representative consumer organizations may, until the time-limit referred to in subparagraph (6) of Article 2 and notified in accordance with the provisions of the said Article, present to the Minister of Finance with information in writing on evidence, etc., views or information, etc to be seen in accordance with the provisions of paragraph 1 of the preceding Article. However, representative consumer organizations may provide such information only in the case where the product is commonly sold at the retail level.

(Public hearing)

Article 9. The Minister of Finance may, if he or she recognizes that the evidence or the testimony presented under the provisions of the first sentence of paragraph 1 or the first sentence of paragraph 2 of Article 4 or paragraph 1 of the preceding Article, the views presented under the provisions of paragraph 1 or paragraph 2 of Article 5 or paragraph 3 of the preceding Article or the information presented under the provisions of the first sentence of paragraph 1 or the first sentence of paragraph 3 of Article 6 or paragraph 4 of the preceding Article are not enough, in the course of the investigation, hold public hearings on the investigation in which he could hear the testimony from

interested parties or views from them, industrial users etc. or representative consumer organizations, or could receive submissions of information from industrial users etc. or representative consumer organizations.

-----  
[Provisional Translation]

Amendments of Regulations to Govern Emergency Measures  
to be taken in Response to an Increase in the Importation of Goods

Regulations to Govern Emergency Measures to be taken in Response to an Increase in the Importation of Goods (Notification No. 715 of the Ministry of International Trade and Industry, December 1994) has been amended partly as follows:

In the Regulations, the term “the Minister of International Trade and Industry” shall be amended to the term “the Minister of Economy, Trade and Industry”.

In Article 2, the terms “through 20” shall be amended to the terms “through 21”.

In Article 8, the terms “ (including the case where he or she receives from any of the State Ministers having jurisdiction over such particular product a request to initiate an investigation hereunder, which request shall be accompanied by sufficient evidence thereof) ” shall be deleted.

Article 9 shall be amended as follows.

Article 9. (Consultation relating to the investigation.)

1. In cases where any Minister who has jurisdiction over the industry in Japan as provided for in Article 2 (hereinafter referred to as "The Minister having jurisdiction over the industry"), when deemed to be necessary upon consideration of the circumstances such that parties having an interest in the said industry make requests, communicates to the Minister of Finance and the Minister of Economy, Trade and Industry to the effect that there is a necessity to hold consultations with regard to the initiation of the investigation, upon submission of the figures of the statistics of the items referred to in subparagraph (1) of paragraph 1 of Article 102 of the Customs Law (Law No. 61 of 1954) (including figures after adjustments which are deemed to be reasonable) about the product of a particular kind as provided for in Article 2, the figures indicating the conditions of domestic sale and manufacture of the said products, and the other data necessary to judge whether there is sufficient evidence to initiate an investigation in the said paragraph (hereinafter referred to as "Investigation") or not, the Minister of Economy, Trade and Industry shall, upon judging whether there is the evidence or not, decide whether to initiate an Investigation or not.

2. The Minister of Economy, Trade and Industry shall, when he or she initiates an Investigation with respect to any particular product, notify the Minister having jurisdiction over the industry and the Minister of Finance in advance.

In paragraph 5 of Article 10, the term “the period during which the inspection of evidence under paragraph 1 of Article 13 hereof shall be allowed, the due date for the presentation of views under paragraph 1 of Article 14 hereof and the due date for the furnishing of information under paragraph 1 of Article 15 hereof; ” shall be amended to the terms “the due date for the presentation of views under paragraph 1 of Article 13 hereof shall be allowed, the due date for the furnishing of information under paragraph 1 of Article 14 hereof and the period during which the inspection of evidence etc., views and information etc. under paragraph 1 of Article 15 hereof;”, subparagraph 6 of said Article shall be

amended to subparagraph 7 of said Article and following subparagraph shall be added next to subparagraph 5 of the said Article.

- (vi) the due date for the presentation of evidence or testimony under paragraph 1 of Article 16, for the presentation of the views under paragraph 3 of the said Article and for the presentation of information under the provisions of paragraph 4 of the said Article;

Article 13 shall be deleted.

In paragraph 1 of Article 14, the terms “major consumer associations which represent the interest of consumers of such particular product” shall be amended to the terms “major consumer associations which represent the interest of consumers of such particular product (hereinafter referred to as “representative consumer associations “), in paragraph 2 of the said Article, the terms “representing the interest of consumers of such particular product” shall be deleted and the said Article shall be amended to Article 13.

Article 16 and Article 24 shall be deleted.

In Article 23, the terms “Article 21” shall be amended to the terms “Article 22”, the said Article shall be amended to Article 24 and Article 22 shall be amended to Article 23.

Article 21 shall be amended to Article 22, Article 20 shall be amended to Article 21 and Article 19 shall be amended to Article 20.

In paragraph 3 of Article 18, the terms “paragraph 1 of this Article” shall be amended to the terms “paragraph 1 of Article 19”, the said Article shall be amended to Article 19 and Article 17 shall be amended to Article 18.

Article 15 shall be amended as follows.

Article 14. (Submission by Industrial Users etc. and consumer associations of information)

1. In cases where an Investigation is initiated hereunder with respect to any particular product, Industrial Users etc. and major consumer associations may, on or before the due date which is referred to in item (v) of Article 10 hereof and of which notification is duly given pursuant to Article 10 hereof, provide the Minister of Economy, Trade and Industry with any information relevant to any of the subjects of such Investigation in writing; A person who provides any information pursuant to the foregoing shall, if he or she requests that any of the information which he or she is going to provide be kept confidential, make a written request to that effect setting forth the reason or reasons for such request.

2. Under the first sentence of the preceding paragraph, major consumer associations may provide such information only in the case where the product is commonly sold at the retail level.

3. The Minister of Economy, Trade and Industry may, if he or she finds it necessary to do so at any time during the continuance of any Investigation hereunder, request any one or more of Industrial Users etc. and/or any major consumer association or associations to provide any information relevant to any of the subjects of such Investigation in writing. A person who provides any information pursuant to the foregoing shall, if he or she requests that any of the information which he or she is going to provide be kept confidential, make a written request to that effect setting forth the reason or reasons for such request.

4. The provisions set forth in paragraph 4 through 8 of Article 12 shall apply *mutatis mutandis* to any and all information provided pursuant to the provisions of the first sentence of paragraph 1 or the first sentence of the preceding paragraph of this Article.

Following three Articles shall be added after Article 14.

Article 15. (Inspection of evidence, etc., views and information, etc.)

1. In cases where an Investigation is initiated hereunder with respect to any particular product, the Minister of Economy, Trade and Industry shall make available for inspection by Interested Parties, Industrial Users etc. and/or any major consumer association or associations copies of all evidence and deposition statements containing the testimony given or submitted with respect to such particular product pursuant to the first sentence of paragraph 1 or 2 of Article 12 hereof (excluding, however, evidence and deposition statements containing testimony which is by nature confidential and/or which are provided by Interested Parties as confidential information), copies of all written non-confidential summaries and written statements submitted to his or her pursuant to paragraph 4 or 5 of said Article hereof or the second sentence of paragraph 7 of Article 12 hereof (including the case where the these provisions apply *mutatis mutandis* to paragraph 9 of the said Article) (such available evidence and written materials being hereinafter in paragraph 2 of this Article collectively referred to as "Available Evidence"), views presented pursuant to paragraph 1 or paragraph 2 of Article 13 (hereinafter referred to as "views") and information presented pursuant to the first sentence of the paragraph 1 or the first sentence of paragraph 3 of the preceding Article (excluding, however, information which is by nature confidential and/or which are provided by industrial users etc. or major consumer associations as confidential information) or documents submitted pursuant to paragraph 4, paragraph 5 and the second sentence of paragraph 7 of the Article 12 which apply *mutatis mutandis* to the paragraph 4 of the preceding Article (hereinafter referred to as "information, etc.") on or before the relevant due date which is referred to in item (v) of Article 10 hereof and of which notification is duly given pursuant to Article 10 hereof, provided, however, that no such major consumer associations may see the evidences, etc., views or information, etc. under that particular product is distributed on a retail level.

2. Any Interested Party who wishes to inspect any Available Evidence, views or information, etc. pursuant to paragraph 1 of this Article shall furnish the Minister of Economy, Trade and Industry with a written statement setting forth the title of the particular item or items of the Available Evidence, views or information, etc. which he or she wishes to inspect and the reasons why he or she is an Interested Party.

Article 16. (Presentation of evidence, etc., views or information on the evidence, etc., the views or the information, etc to be seen)

1. Interested party may, on or before the due date which is referred to in subparagraph (vi) of Article 10 and of which notification is duly given pursuant to Article 10 hereof, submit or give to the Minister of Economy, Trade and Industry evidence and/or testimony with respect to the evidence, etc., views or information, etc to be seen in accordance with the provisions of paragraph 1 of the preceding Article.

2. The Minister of Economy, Trade and Industry shall, if he or she is notified by any Interested Party that such Interested Party is going to give testimony pursuant to the first sentence of paragraph 1 of this Article, give such Interested Party written notice setting forth the particulars of the hearing or hearings at which such Interested Party may testify including but not limited to the date, place and time of such hearing or hearings.

3. Interested party, Industrial Users etc. and major consumer associations may, on or before the due date which is referred to in item (vi) of Article 10 hereof and of which notification is duly given

pursuant to Article 10 hereof, express to the Minister of Economy, Trade and Industry their views on such Investigation in writing; However, no such major consumer associations may express their views thereon unless that particular product is distributed on a retail level.

4. Industrial Users etc. and major consumer associations may, on or before the due date which is referred to in item (vi) of Article 10 hereof and of which notification is duly given pursuant to Article 10 hereof, provide the Minister of Economy, Trade and Industry information on such Investigation in writing; However, no such major consumer associations may express their views thereon unless that particular product is distributed on a retail level.

Article 17. (Public hearing)

The Minister of Economy, Trade and Industry may, if he recognizes that the evidence or the testimony presented under the provisions of the first sentence of paragraph 1 or the first sentence of paragraph 2 of Article 12 or paragraph 1 of the preceding Article, the views presented under the provisions of paragraph 1 or paragraph 2 of Article 13 or paragraph 3 of the preceding Article or the information presented under the provisions of the first sentence of paragraph 1 or the first sentence of paragraph 3 of Article 14 or paragraph 4 of the preceding Article are not enough, in the course of the Investigation, hold public hearings on the Investigation in which he could hear testimony from interested parties or views from them, industrial users etc. or major consumer associations, or could receive submissions of information from industrial users etc. or major consumer associations.

---