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**Committee on Anti-Dumping Practices**  
**Committee on Subsidies and Countervailing Measures**

Original: English

**NOTIFICATION OF LAWS AND REGULATIONS UNDER  
ARTICLES 18.5 AND 32.6 OF THE AGREEMENTS**

JAPAN

*Supplement*

The following communication, dated 20 June 2018, is being circulated at the request of the Delegation of Japan.

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Pursuant to Article 32.6 of the Agreement on Subsidies and Countervailing Measures and pursuant to Article 18.5 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade (Anti-Dumping Agreement), the Government of Japan wishes to notify the relevant Articles in the Cabinet Orders and the Guidelines for Procedures Relating to Countervailing Duty and Anti-Dumping Duty, which are amended. The amendments entered into force on 1 April 2017.

[Provisional Translation]

**I. CABINET ORDER RELATING TO COUNTERVAILING DUTY (G/SCM/N/1/JPN/2, G/SCM/N/1/JPN/2/CORR.1, G/SCM/N/1/JPN/2/CORR.2, G/SCM/N/1/JPN/2/SUPPL.8)**

Article 3 of the Cabinet Order<sup>1</sup> have been amended and replaced by the following.

(Interested Parties for Domestic Industry)

Article 3

1. The term "interested parties for domestic industry" provided for in paragraphs 5, 18 and 23 of Article 7 of the Law shall be:

- (1) a domestic producer of the like products of such imported product or an association the direct or indirect members of which are domestic producers of the like products (hereinafter referred to as "interested producers, etc." in this item and Articles 4 and 7) (If "interested producers, etc." is an association, two or more of direct or indirect members must be domestic producers of the like products. The same applies in Article 4.), and whose collective domestic output of the like products constitutes not less than 25 per cent of the total domestic production of the like products.
- (2) a labour union the direct or indirect members of which are labours who are engaged in the production of the like products of the imported product (referred to as "interested labour union" in Articles 4 and 7) and the collective number of such labours of its direct or indirect members constitutes not less than 25 per cent of the total number of labours who are engaged in such production.

2. Producer who is not included in the domestic producer as provided for in paragraph 1 of the preceding Article pursuant to the provision of paragraph 2 of the said Article and the domestic output of the like products of the imported product by such producer, shall not be included in the domestic producer and the total domestic production as provided for in sub-paragraph (1) of the preceding paragraph. Labour who is engaged in the production of the like products under producer who shall not be included in the domestic producer as provided for in paragraph 1 of the said Article pursuant to the provision of paragraph 2 of the said Article shall not be included in labours who are engaged in such production as provided for in sub-paragraph (2) of the preceding paragraph.

**II. CABINET ORDER RELATING TO ANTI-DUMPING DUTY (G/ADP/N/1/JPN/2, G/ADP/N/1/JPN/2/CORR.1, G/ADP/N/1/JPN/2/CORR.2, G/ADP/N/1/JPN/2/SUPPL.1, G/ADP/N/1/JPN/2/SUPPL.3, G/ADP/N/1/JPN/2/SUPPL.8)**

Article 5 of the Cabinet Order<sup>2</sup> have been amended and replaced by the following.

(Interested Parties for Domestic Industry)

Article 5

1. The term "interested parties for domestic industry" provided for in paragraphs 4, 21 and 26 of Article 8 of the Law shall be:

- (1) a domestic producer of the like products of such imported product or an association the direct or indirect members of which are domestic producers of the like products

<sup>1</sup> G/SCM/N/1/JPN/2, G/SCM/N/1/JPN/2/corr.1, G/SCM/N/1/JPN/2/Corr.2, G/SCM/N/1/JPN/2/SUPPL.8.

<sup>2</sup> G/ADP/N/1/JPN/2, G/ADP/N/1/JPN/2/Corr.1, G/ADP/N/1/JPN/2/Corr.2, G/ADP/N/1/JPN/2/Suppl.1, G/ADP/N/1/JPN/2/Suppl.3.

(hereinafter referred to as "interested producers, etc." in this item and Articles 7 and 10) (If "interested producers, etc." is an association, two or more of direct or indirect members must be domestic producers of the like products. The same applies in Article 7.), and whose collective domestic output of the like products constitutes not less than 25 per cent of the total domestic production of the like products.

- (2) a labour union the direct or indirect members of which are labours who are engaged in the production of the like products of the imported product (referred to as "interested labour union" in Articles 7 and 10) and the collective number of such labours of its direct or indirect members constitutes not less than 25 per cent of the total number of labours who are engaged in such production.

2. Producer who is not included in the domestic producer as provided for in paragraph 1 of the preceding Article pursuant to the provision of paragraph 2 of the said Article and the domestic output of the like products of the imported product by such producer, shall not be included in the domestic producer and the total domestic production as provided for in sub-paragraph (1) of the preceding paragraph. Labour who is engaged in the production of the like products under producer who shall not be included in the domestic producer as provided for in paragraph 1 of the said Article pursuant to the provision of paragraph 2 of the said Article shall not be included in labours who are engaged in such production as provided for in sub-paragraph (2) of the preceding paragraph.

### III. THE GUIDELINES FOR PROCEDURES RELATING TO COUNTERVAILING DUTY

As to Paragraph 4 of the Guideline<sup>3</sup>, subparagraphs (3) and (4) have been removed. As a result, previous subparagraph numbers (5), (6) and (7) were technically amended (transferred) to (3), (4) and (5) respectively. As to Paragraph 5 of the Guideline, subparagraph (2) have been amended and replaced by the following.

[Provisional Translation]

#### 5. Initiation of Investigation, etc. (excerpt)

##### (2) Examination for the Initiation of Investigation

(Law: Article 7, paragraph 6, 19 and 24. Cabinet Order: Article 4, subparagraph 5 and 7 of paragraph 1, subparagraph 7 of paragraph 3 and subparagraph 7 of paragraph 4. ASCM: Article 11, paragraph 4.)

- (i) Any Minister who has jurisdiction over the industry in Japan as provided for in paragraph 1 of Article 7 of the Law (referred to as "the Minister having jurisdiction over the industry" in paragraph (2)(ii) of Article 5 hereof) may confirm the degree of support of the request for the imposition of duty, etc. under paragraph 5, 18 or 23 of Article 7 of the Law with interested producers, etc. or interested labour unions. However, in the case that the degree of support by interested producers, etc. or interested labour unions as provided for in subparagraph 7 of paragraph 1, subparagraph 7 of paragraph 3, or subparagraph 7 of paragraph 4 of Article 4 of the Cabinet Order does not correspond to either of the following, the said confirmation shall be made.
- A. The collective domestic output of the like products of the imported product concerned by interested producers, etc. (in the case of an association that has domestic producers of the like products of the imported product concerned as its direct or indirect members, those producers of its direct or indirect members. The same applies to paragraph (2)(iii)A of Article 5 hereof) in support of the said request for the imposition of duty, etc. constitutes more than half of the total domestic production of the said product (excluding the domestic output of the said product by producers who are not included in the domestic producers pursuant to the provision of paragraph 2 of Article 3 of the Cabinet Order).

<sup>3</sup> G/SCM/N/1/JPN/2/Suppl.6.

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- B. The collective number of labours engaged in the domestic production of the said product who are in support of the said request for the imposition of duty, etc. constitutes more than half of the total number of labours engaged in such production.
- (ii) The Minister having jurisdiction over the industry shall, when the confirmation as provided for in paragraph (2)(i) of Article 5 hereof is made, inform in writing the Minister of Finance and the Minister of Economy, Trade and Industry of the result of the said confirmation.
- (iii) It shall not be regarded as "found to be necessary" provided for in paragraph 6, 19 or 24 of Article 7 of the Law, unless the degree of support by interested producers, etc. or interested labour unions as provided for in subparagraph 7 of paragraph 1, subparagraph 7 of paragraph 3, or subparagraph 7 of paragraph 4 of Article 4 of the Cabinet Order (in the case that the confirmation as provided for in paragraph (2)(i) of Article 5 hereof is made, the result of the said confirmation) corresponds to either of the following.
- A. The collective domestic output of the like products of the imported product concerned by interested producers, etc. in support of the request for the imposition of duty, etc. under paragraph 5, 18 or 23 of Article 7 of the Law exceeds the collective domestic output of the said product by interested producers, etc. who declare that they oppose to the said request for the imposition of duty, etc.
- B. The collective number of labours engaged in the domestic production of the said product who are in support of the said request for the imposition of duty, etc. exceeds the collective number of labours engaged in such production who declare that they oppose to the said request for the imposition of duty, etc.
- (iv) When the request for the imposition of countervailing duty is made pursuant to the provision of paragraph 5 of Article 7 of the Law, the following issues, among other issues, shall be examined with respect to the evidence, etc. attached the said request in making a decision on whether to initiate the investigation as provided for in paragraph 6 of the said Article.
- A. Fact of Importation of the Subsidized Product:
- (a) It is indicated that a measure as provided for in either of items of subparagraph (a) of paragraph 1 of Article 1 of ASCM is granted;
- (b) It is indicated that benefit is conferred by a measure as specified in accordance with paragraph (2)(iv)A(a) of Article 5 hereof; and
- (c) It is indicated that the measure as specified in accordance with paragraph (2)(iv)A(a) of Article 5 hereof is specific as provided for in Article 2 of ASCM.
- B. Fact of Material Injury, etc. to the Domestic Industry Caused by Importation of the Subsidized Product:
- (a) An increase of importation of the subsidized product, either in absolute terms or relative to production or consumption in Japan is indicated. Where there is more than one supplying country of the subsidized product, such increase is indicated for each supplying country;
- (b) It is indicated that importation of the subsidized product depresses prices of a like product of the subsidized product in Japan or prevents its price increases, which otherwise would have occurred without importation of the subsidized product;
- (c) The impact of importation of the subsidized product on the domestic industry (including, at least for the applicants, decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity, or adverse effects on cash flow, inventories, employment, wages, growth, ability to raise capital or investments) is indicated by reasonably available information; and

- (d) Material injury, etc. to the domestic industry is explained based on the facts shown by the applicant in paragraphs (2)(iv)B (a), (b) and (c) of Article 5 hereof, etc.
- (e) A causal relationship between importation of the subsidized product and material injury, etc. to the domestic industry may be confirmed.
- (v) In principle, the scope of the examination under paragraph (2)(iv) of Article 5 hereof shall be limited to matters as set forth in the document of the request for the imposition of countervailing duty; provided that in case corrections are made after submission of the said document in accordance with paragraph (1) of Article 5 hereof, a decision on whether to initiate the investigation shall be based on the corrected document.

#### IV. THE GUIDELINES FOR PROCEDURES RELATING TO ANTI-DUMPING DUTY

As to Paragraph 5 of the Guideline<sup>4</sup>, subparagraphs (3) and (4) have been removed. As a result, previous subparagraph numbers (5), (6) and (7) were technically amended (transferred) to (3), (4) and (5) respectively. As to Paragraph 6 of the Guideline, subparagraph (2) and subparagraph (6) (ii) of Paragraph 7 have been amended and replaced by the following.

[Provisional Translation]

#### 6. Initiation of Investigation, etc. (excerpt)

##### (2) Examination for the Initiation of Investigation

(Law: Article 8, paragraph 5, 22 and 27. Cabinet Order: Article 7, subparagraph 5 and 7 of paragraph 1, subparagraph 7 of paragraph 3 and subparagraph 7 of paragraph 4. ADA: Article 5, paragraph 4.)

- (i) Any Minister who has jurisdiction over the industry in Japan as provided for in paragraph 1 of Article 8 of the Law (referred to as "the Minister having jurisdiction over the industry" in paragraph (2)(ii) of Article 6 hereof) may confirm the degree of support of the request for the imposition of duty, etc. under paragraph 4, 21 or 26 of Article 8 of the Law with interested producers, etc. or interested labour unions. However, in the case that the degree of support by interested producers, etc. or interested labour unions as provided for in subparagraph 7 of paragraph 1, subparagraph 7 of paragraph 3, or subparagraph 7 of paragraph 4 of Article 7 of the Cabinet Order does not correspond to either of the following, the said confirmation shall be made.
  - A. The collective domestic output of the like products of the imported product concerned by interested producers, etc. (in the case of an association that has domestic producers of the like products of the imported product concerned as its direct or indirect members, those producers of its direct or indirect members. The same applies to paragraph (2)(iii)A of Article 6 hereof) in support of the said request for the imposition of duty, etc. constitutes more than half of the total domestic production of the said product (excluding the domestic output of the said product by producers who are not included in the domestic producers pursuant to the provision of paragraph 2 of Article 5 of the Cabinet Order).
  - B. The collective number of labours engaged in the domestic production of the said product who are in support of the said request for the imposition of duty, etc. constitutes more than half of the total number of labours engaged in such production.

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<sup>4</sup> G/ADP/N/1/JPN/2/Suppl.6.

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- (ii) The Minister having jurisdiction over the industry shall, when the confirmation as provided for in paragraph (2)(i) of Article 6 hereof is made, inform in writing the Minister of Finance and the Minister of Economy, Trade and Industry of the result of the said confirmation.
- (iii) It shall not be regarded as "found to be necessary" provided for in paragraph 5, 22 or 27 of Article 8 of the Law, unless the degree of support by interested producers, etc. or interested labour unions as provided for in subparagraph 7 of paragraph 1, subparagraph 7 of paragraph 3, or subparagraph 7 of paragraph 4 of Article 7 of the Cabinet Order (in the case that the confirmation as provided for in paragraph (2)(i) of Article 6 hereof is made, the result of the said confirmation) corresponds to either of the following.
- A. The collective domestic output of the like products of the imported product concerned by interested producers, etc. in support of the request for the imposition of duty, etc. under paragraph 4, 21 or 26 of Article 8 of the Law exceeds the collective domestic output of the said product by interested producers, etc. who declare that they oppose to the said request for the imposition of duty, etc.
- B. The collective number of labours engaged in the domestic production of the said product who are in support of the said request for the imposition of duty, etc. exceeds the collective number of labours engaged in such production who declare that they oppose to the said request for the imposition of duty, etc.
- (iv) When the request for the imposition of anti-dumping duty is made pursuant to the provision of paragraph 4 of Article 8 of the Law, the following issues, among other issues, shall be examined with respect to the evidence, etc. attached the said request in making a decision on whether to initiate the investigation as provided for in paragraph 5 of the said Article.
- A. Fact of Importation of the Dumped Product:
- (a) The normal value is indicated in a verifiable manner;
- (b) The export price (which shall mean the price sold for export as referred to in the provision of paragraph 1 of Article 8 of the Law; hereinafter the same) is indicated in a verifiable manner; and
- (c) The export price is less than the normal value in accordance with the comparison of these prices as shown in paragraphs (2)(iv)A (a) and (b) of Article 6 hereof.
- B. Fact of Material Injury, etc. to the Domestic Industry Caused by Importation of the Dumped Product:
- (a) An increase of importation of the dumped product, either in absolute terms or relative to production or consumption in Japan, is indicated. Where there is more than one supplying country of the dumped product, such increase is indicated for each supplying country;
- (b) It is indicated that importation of the dumped product depresses prices of a like product of the dumped product in Japan or prevents its price increases, which otherwise would have occurred without importation of the dumped product;
- (c) The impact of importation of the dumped product on domestic industry (including, at least for the applicant, decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity, or negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital or investments) is indicated by reasonably available information; and
- (d) Material injury, etc. to the domestic industry is explained based on the facts shown by the applicant in paragraphs (2)(iv)B (a), (b) and (c) of Article 6 hereof, etc.

- (e) A causal relationship between importation of the dumped product and material injury, etc. to the domestic industry may be confirmed.

(v) In principle, the scope of the examination under paragraph (2)(iv) of Article 6 hereof shall be limited to matters as set forth in the document of the request for the imposition of anti-dumping duty; provided that in case corrections are made after submission of the said document in accordance with paragraph (1) of Article 6 hereof, a decision on whether to initiate the investigation shall be based on the corrected document.

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