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Page: 1/4

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

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

THE SEPARATE CUSTOMS TERRITORY OF TAIWAN,
PENGHU, KINMEN AND MATSU

Supplement

The following communication, dated 23 August 2018, has been received from the Permanent Mission of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu.

Pursuant to Article 18.5 of the WTO Anti-Dumping Agreement and Article 32.6 of the Agreement on Subsidies and Countervailing Measures, the government of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu hereby notifies the Committee on Anti-Dumping Practices and the Committee on Subsidies and Countervailing Measures respectively, of the amendments of the relevant Articles in the Regulations Governing the Implementation of the Imposition of Countervailing and Anti-Dumping Duties. The amendments entered into force on 2 February 2016.

The key elements of the changes are as follows:

1. The portion of Article 8 paragraph 2 is amended and replaced by the following:

With the exception of application rejected pursuant to the preceding reasons, the MOF shall, within 30 days from the next day of receipt of the application, submit the proposal to the Commission for decision. However, where the applicant has been notified to provide supplement and correction of its application within a specified period of time, the 30 days limit is to be counted from the next day of receipt of the completed version of the application.

2. The portion of Article 9 paragraph 2 is amended and replaced by the following:

Pursuant to the preceding paragraph, the case in which the Commission decides to initiate an investigation, any unknown foreign producers, exporters and domestic importers may, within 20 days from the next day of the public notice of the initiation of the investigation, express to the MOF its identity and willingness to be involved in the investigation in writing.

3. The portion of Article 14 paragraph 1 is amended and replaced by the following:

For the case in which the preliminary determination is made, the MOF shall proceed with the investigation, whether there is a subsidy or dumping involved, and shall, within 60 days from the next day of a public notice of the preliminary determination, submit the case to the Commission to make its final determination.

4. Added Article 15-1 as the following:

The applicant may, after the public notice of the initiation of an investigation of the case being made, apply for withdrawal of the case with the reasons to its withdrawal and

presenting qualified representative of the industry pursuant to Article 6. The MOF may, after consulting with the relevant agencies, submit a proposal to the Commission for decision. The period of time, from receipt of the application of withdrawal to submission of a proposal to the Commission for decision, shall be excluded from the time set forth for investigation in Article 12, Article 14, paragraph 1 of Article 16, paragraph 2 of Article 43, and paragraphs 4 and 5 of Article 44.

The application of withdrawal of the case as referred to in the preceding paragraph, if the Commission decides to terminate the investigation, the MOF shall immediately notify the applicant and the known interested parties in writing and make a public notice thereof. However, if the Commission deems it is necessary to proceed with the investigation, the competent authorities shall continue the investigation ex officio, and notify the applicant in writing.

5. The portion of Article 16 paragraph 1 is amended and replaced by the following:

For the case in which the final determination made by the MOEA is that there is no injury to the domestic industry, the MOF shall, within ten days from the next day of its receipt of the notice from the MOEA, after the Commission determines to terminate the case, immediately notify the applicant and any known interested parties in writing, and make a public notice thereof. Where the final determination found injury to the domestic industry, the MOF shall, within ten days from the next day of its receipt of the notice from the MOEA, submit the case to the Commission to determine whether to impose a countervailing duty or anti-dumping duty. For the case in which the Commission determines to impose a countervailing duty or anti-dumping duty, the MOF shall, pursuant to the relevant acts and regulations, approve the subject products, the country or countries of export, respective duty rates and the commencement or closing date of the imposition of the countervailing duty or anti-dumping duty, and shall immediately notify the applicant and any known interested parties in writing, and make a public notice thereof. For the case in which the Commission decides not to impose countervailing or anti-dumping duty, the MOF shall notify the applicant and any known interested parties in writing, and make a public notice thereof.

6. The portion of Article 23 paragraph 2, 3, and 4 are amended and replaced by the following:

With respect to the undertaking pursuant to the preceding paragraph, the government of the exporting country or the foreign exporters may apply to the MOF in writing within 30 days from the next day of the public notice of the preliminary determination of subsidy or dumping.

Applicant shall provide an application of undertaking and commit to implement the terms and conditions as follows:

- (1) Scope of product concerned and terms of undertaking,
- (2) Export price of product concerned will be no less than the price of undertaking,
- (3) Information related to the fulfilment of undertaking will be provided on a regular basis,
- (4) Information related to the fulfilment of undertaking will be reviewed by competent authority,
- (5) Acceptance of on-the-spot verification to be conducted by competent authority, when necessary,
- (6) Commitment of not taking any compensatory arrangement or in any other form to affect results of the undertaking, and
- (7) Provision of other requirements that competent authority deems necessary.

Upon receiving the application of undertaking pursuant to the preceding Article, the MOF shall provide competent authority in charge of domestic industry and interested parties with opportunities to comment in writing.

7. The portion of Article 24 paragraph 1 is amended and replaced by the following:

Application of undertaking shall be submitted to the Commission for decision; where the Commission decides to approve the application, the MOF may suspend the investigation and provisional imposition of countervailing duty or anti-dumping duty, and notify the applicant

and the known interested parties and make public a notice thereof. If the Commission deems that the terms and conditions of the application are not practical, or that there are too many actual or potential exporters, or that approval of the application is not compliant with the general policy or for other reasons, the MOF may reject the application and notify the applicant and known interested parties and make public a notice thereof.

8. Added Article 25-1 as the following:

Upon approval of the application of undertaking decided by Commission, the government of the exporting country or the foreign exporters shall fulfil commitments prescribed in the undertaking pursuant to paragraph 3 of Article 23, and cope with the verification to be done by the MOF.

Where the government of the exporting country or the foreign exporter is in violation of the undertaking, the competent authorities may terminate the undertaking, and shall conduct the following regulations:

- (1) Where the final determination has been made, and the imposition of countervailing duty or anti-dumping duty has been decided, the approved duty rate is to be imposed accordingly.

The investigation of the case being suspended pursuant to paragraph 1 of Article 24, such investigation shall be completed as soon as possible. In cases when the countervailing duty or anti-dumping duty was not provisionally imposed or when such imposition was suspended, the MOF may, when necessary, provisionally impose the countervailing duty or anti-dumping duty after submission of facts available to the Commission for determination. Where the imposition of a countervailing duty or anti-dumping duty is determined, the definitive duties may be levied on products imported not more than 90 days prior to the date of application of provisional measures. However, the imposition of definitive duties shall not apply to products imported prior to the violation.

9. Deleted Article 35 paragraph 3 and added Article 35-1 as the following:

Foreign producers or exporters of the case may apply for the new shipper investigation to MOF with relevant documents or evidences, and request for an individual dumping margin respectively, provided that:

- (1) These producers or exporters have not exported the products concerned during the original period of investigation.
- (2) These producers or exporters can show that they are not related to any of the producers or exporters in the exporting country who are subject to the anti-dumping duties on the products.
- (3) These producers or exporters have exported a significant quantity of the product concerned following the original period of investigation.

After issuing the public notice of imposing the anti-dumping duty, the producers or exporters who meet the qualifications of the preceding paragraph may apply for new shipper investigation to the MOF within one year from the date of the first importation of the product concerned.

With respect to the case of new shipper investigation, the MOF shall finish the investigation within nine months from the date of issuing the public notice of the initiation of the investigation, and submit the proposal to the Commission for decision. Where the decision is made, the MOF shall notify the new shipper and known interested parties in writing and make a public notice thereof.

From the date of the initiation of the new shipper investigation, the MOF may request the importers to offer security, guarantee, or deposit money in the forms as set forth in Article 11 of the Customs Act to ensure the imposition of the anti-dumping duty. Where the

new shipper's individual dumping margin has been determined, if the amount of the definitive duty is higher than the security, guarantee, or deposit money, the difference shall not be collected; conversely, the former is lower than the latter, then the difference shall be refunded.

10. The portion of Article 44 paragraph 7 is amended and replaced by the following:

With respect to the case where application of undertakings have been approved pursuant to Article 24, the undertaking measures shall remain in effect before the determination of the sunset investigation, provisions of paragraph 1 and paragraphs 3, 4, 5 and 6 of this Article shall apply mutatis mutandis to the procedures used thereof.

11. Added Article 45-1 as the following:

For cases where the preliminary determination is of no injury to domestic industry or of non-existence of subsidy or dumping pursuant to Article 12, Article 14, and Article 16, or where the investigation is terminated pursuant to Article 15 and Article 15-1, or where an interim investigation or sunset investigation is finished pursuant to Article 43 and Article 44, respectively, applicants of the cases shall not reapply for the same incident within a year from the next day of the public notice of termination or finish of the investigation.

Updated and consolidated versions of the laws and regulations are available on the web site <https://law.moj.gov.tw/Eng/LawClass/LawAll.aspx?PCode=G0350034>.
