

Content

Title :	Regulation on Handling Import Relief Cases <b>Ch</b>
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Content :	<b>Chapter 1 General Provisions</b>  <b>Article 1</b> This Regulation is prescribed pursuant to Paragraph 3 of Article 18 of the Foreign Trade Act (hereinafter referred to as the Act).  <b>Article 2</b> An “import relief case” as referred to in this Regulation means a case in which a petition, pursuant to Paragraph 1, Article 18 of the Act, has been made for an investigation into the injury to a domestic industry caused by imports and for import reliefs. The injury to a domestic industry, as referred to in the preceding paragraph, is established when there is an increase in the quantity of the imported product concerned, or an increase in such imports relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to the domestic industry producing like products or directly competitive products. The term “serious injury”, as referred to in the preceding paragraph, means a significant overall impairment to the domestic industry. The term “threat of serious injury” means a serious injury that has not yet occurred but is clearly imminent.  <b>Article 3</b> With respect to an import relief case, the Ministry of Economic Affairs (hereinafter referred to as the MOEA) may, upon a petition by the relevant authority, the injured domestic industry, an association, a labor union, or relevant organizations on behalf of the injured domestic industry, refer it to the International Trade Administration (hereinafter referred to as TITA) of the MOEA for investigation, and the results should be submitted to the Trade Remedies Commission (hereinafter referred to as the Commission) of the MOEA for deliberation.  <b>Article 4</b> In making a determination regarding the existence of serious injury, the amount and rate of increase in imports of the product concerned in absolute terms and relative to domestic production shall be considered, along with the following factors concerning the domestic industry and changes thereof: 1. Market share, 2. Sales, 3. Production, 4. Productivity, 5. Capacity utilization, 6. Profits and losses,

7. Employment,
8. Other relevant factors.

In making a determination regarding the existence of a threat of serious injury, in addition to the trends of changes in factors referred to in the preceding paragraph, the production capacity and export capability of the major exporting countries shall be taken into account to evaluate whether the said industry would be seriously injured should no import relief measures be imposed. The MOEA, in determining the injury of the preceding two paragraphs, shall consider all evidence or information gathered during the investigation. If factors other than increased imports are causing injury to the domestic industry at the same time, such injury shall not be attributed to increased imports.

#### Article 5

For an import relief case in which a domestic industry has been determined to be injured by imports pursuant to this Regulation, the MOEA may adopt the following relief measures:

1. Adjusting the tariffs,
2. Imposing import quotas,
3. Providing financing guarantee, incentives for technological research and development, career transition counseling, vocational training, or other adjustment measures or assistance.

The measures referred to in Subparagraphs 1 and 2 of the preceding paragraph shall not be adopted simultaneously.

The measure referred to in the Subparagraph 1 of Paragraph 1 shall be implemented pursuant to relevant provisions of the Customs Act by the Ministry of Finance upon notification by the MOEA. The measure referred to in Subparagraph 2 of Paragraph 1 may be implemented based on agreements made between the MOEA and the exporting countries regarding relevant matters. For measures related to agricultural products, as mentioned in Subparagraph 3 of Paragraph 1, the Ministry of Agriculture shall be responsible for implementation, while measures other than those pertaining to agricultural products shall be implemented by the MOEA in coordination with related government agencies.

#### Article 6

The term "domestic industry", as referred to in this Regulation, means the domestic producers of like products or directly competitive products whose collective output constitutes a major proportion of the total domestic production of those products, as determined by the MOEA.

The term "like products", as referred to in this Regulation, means products having the same characteristics and composed of the same materials as the imported products concerned. The term "directly competitive products" refers to products that, despite differences in their characteristics or composition, are directly substitutable in terms of their utility and commercial competitiveness with the imported products concerned.

#### Article 7

The term "interested parties" referred to in this Regulation include the following:

1. Foreign producers or exporters, domestic importers or the commercial/industrial associations to which they belong as major members, of the imported products concerned,
2. The government or its representative(s) of the exporting countries or the countries of origin, of the imported products concerned,
3. Domestic producers of like products or directly competitive products, or the commercial/industrial associations to which they belong as major members,
4. Other interested parties as identified by the MOEA.

#### Article 8

Unless otherwise specified by this Regulation, decisions of the Commission shall be made by a majority of the attending Commissioners at meetings in which more than half of all Commissioners are present.

#### Article 9

Any information for public notice required by this Regulation shall be published in the Government Gazette.

### Chapter 2 Petition

#### Article 10

An applicant applying for an import relief shall file a written application containing the following

items, together with sufficient materials, with the MOEA:

1. Proofs that the petitioner meets the qualifications prescribed in Article 3;
  2. Information about the imported subject products:
    - (1) Descriptions, import and export commodity classification codes, tariff codes, qualities, specifications, use and other characteristics;
    - (2) Countries of exports, countries of origins, producers or exporters of those countries, and domestic importers;
  3. Facts about the impact on the domestic industry:
    - (1) The production, sales, inventory, price, profits and losses, capacity utilization, and employment of the domestic industry, and their changes for the most recent three years prior to the petition date;
    - (2) Quantity, price and market share of imported products concerned in the domestic market for the most recent three years prior to the petition date;
    - (3) Quantity and price of products concerned imported from the major exporting countries for the most recent three years prior to the petition date;
    - (4) Other information supporting the assertion that the domestic industry has been affected;
  4. The adjustment plan for the domestic industry to recover its competitiveness or to undergo business transformation and the proposal on what import relief measures to be implemented.
- The information and supporting materials required under Subparagraphs 2 and 3 of the preceding paragraph may not be provided if the petitioner has a good reason that has been agreed by the MOEA.
- The adjustment plan referred to in Subparagraph 4 of Paragraph 1 may be submitted within 90 days from the date of filing the petition.

#### Article 11

Unless any of the following situations which would lead to the dismissal of the petition, the MOEA shall, within 30 days from the day after receiving the petition, refer the import relief case to the Commission to deliberate on whether to initiate an investigation. However, the time required for the petitioner to correct or supplement the required information shall not be included in the thirty-day period:

1. The petitioner does not meet the qualifications required in Article 3; or
2. The petitioner fails to comply with the requirements specified in Paragraph 1 of preceding article and subsequently fails to correct or supplement the information adequately within the specified period after being notified.

The MOEA shall promptly notify the petitioner and known interested parties in writing, and issue a public notice, when a decision is made regardless of whether to initiate an investigation.

### Chapter 3 Industry Injury Investigation

#### Article 12

For the purpose of conducting an investigation on an import relief case, the Convenor of the Commission shall designate one or two Commissioners to oversee each import relief case. Additionally, TITA may establish a working group, where necessary, inviting staff from relevant agencies or scholars and experts in relevant fields to assist with the investigation on a case-by-case basis.

#### Article 13

When conducting an investigation on an import relief case, TITA shall comply with the following:

1. It shall examine the information provided by the petitioner and the interested parties, and may conduct on-site verification. It may also require additional information that it deems necessary; and
2. It shall hold hearings.

The petitioner or the interested parties shall provide information upon the request of TITA. If such information is not provided by the deadlines, TITA may proceed to examine the case based on the information available.

#### Article 14

TITA shall permit public access to the information provided by the petitioner or interested parties, unless a request accompanied by justification has been made to keep the information confidential. Regarding the request for confidentiality mentioned in the preceding paragraph, TITA may request the provision of a summary that can be disclosed publicly. Failure to comply with this request without justification may result in the said information being disregarded.

#### Article 15

TITA shall issue a public notice in advance of holding a hearing.

TITA shall also notify the petitioner and known interested parties to attend the hearing.

#### Article 16

Those who wish to make a presentation of their opinions at a hearing may express their intention to participate to TITA before the hearing and may submit their substantive opinions relating to the case in writing to TITA before the hearing.

#### Article 17

Before holding a hearing, TITA may convene a procedural meeting to determine the order of presentation, the allocation of time for each, and other related matters.

A hearing shall be presided over by the Commissioner designated by the Convenor of the Commission pursuant to Article 12.

#### Article 18

If TITA, during its preliminary investigation of a case, finds clear evidence indicating that increased imports have caused or are threatening to cause serious injury to the domestic industry producing like products or directly competitive products, and there are critical circumstances where delay would cause damage that would be difficult to repair, the Commission may propose a provisional increase of tariffs on the products concerned before making a final determination on the existence of the injury. This proposal shall be made within 70 days from the day following the notification by the MOEA to the petitioner regarding the initiation of the investigation.

The proposal for the provisional increase of tariffs as referred to in the preceding paragraph shall be submitted to the MOEA within ten days after it is made by the Commission. If the MOEA agrees to adopt the proposal, it shall, after consulting with the relevant competent authorities, submit the proposal to the Executive Yuan for approval within ten days of the MOEA's agreement. The implementation period shall not exceed 200 days and shall be included in the implementation period as prescribed in Article 25.

The provisional measures referred to in the preceding paragraph shall cease upon the issuance of a public notice by the MOEA, indicating either the formal application of import relief measures or the determination that there is no injury to the domestic industry.

The tariffs imposed as provisional measures may be guaranteed by government bonds or other securities approved by the Ministry of Finance in an equivalent amount. Upon issuance of a public notice by the MOEA stating that no injury exists to the domestic industry, the tariffs imposed as provisional measures shall be refunded, and/or the guarantees waived. Upon issuance of a public notice by the MOEA regarding the application of import relief measures, the guarantees shall be released after the provisional tariffs have been fully paid.

#### Article 19

After completing the investigation of an import relief case, TITA shall submit the draft investigation report to the Commission for deliberation to determine whether the domestic industry has been injured by imports.

The decision referred to in the preceding paragraph shall be made by at least two-thirds of attendance at a meeting where more than a half of all Commissioners are present.

#### Article 20

Unless otherwise provided in Paragraph 1 of Article 21, the Commission shall make a decision as to whether the industry has been injured within 120 days from the day after the petitioner is notified of the initiation of the investigation by the MOEA.

The time limit mentioned in the previous paragraph may be extended by up to 60 days if deemed necessary. TITA shall notify the petitioner and known interested parties of any such extension, along with the reasons for it, and issue a public notice.

#### Article 21

In cases involving perishable agricultural products where serious injury would be difficult to repair without timely relief measures, the MOEA shall refer the import relief case to the Commission for deliberation on initiating an investigation within 20 days of receiving the petition. Article 11 of this Regulation shall apply *mutatis mutandis* to matters concerning the procedures for supplementing the petition, dismissing it, issuing notifications, and providing public notices.

When an investigation is initiated as described in the preceding paragraph, the Commission shall decide whether the industry has been injured within 70 days from the day after the petitioner is notified of the investigation's initiation by the MOEA.

The perishable agricultural products referred to in the first paragraph of this Article shall be determined by the Ministry of Agriculture on a case-by-case basis.

#### Article 22

A decision made by the Commission regarding whether the industry has been injured shall be submitted to the MOEA, along with an investigation report, within 15 days after the decision is made. The MOEA shall notify the petitioner and known interested parties of the decision in writing and issue a public notice thereof.

In the event of an affirmative decision that the industry has been injured, TITA shall, within 30 days from the date the decision is made, hold a hearing on the proposed import relief measures.

Subsequently, TITA shall submit the proposed import relief measures to the Commission for recommendation on implementation, and then forward the Commission's recommendation to the MOEA.

When the Commission makes a recommendation that no import relief measures shall be implemented and the MOEA accepts it, the MOEA shall promptly issue a public notice stating that no import relief measure will be implemented. If the MOEA does not accept the Commission's recommendation, it shall promptly instruct TITA to hold a hearing within 30 days to determine what import relief measures should be proposed. TITA shall then submit the proposed measures to the Commission for deliberation, and subsequently, the Commission's recommendation shall be submitted to the MOEA.

The provisions of Articles 15 through 17 shall apply *mutatis mutandis* to the procedure for holding the hearing referred to in the preceding paragraph.

#### Article 23

The Commission's recommendation to the MOEA regarding the adoption of import relief measures shall require the approval of at least two-thirds of the attending Commissioners at a meeting where more than half of all Commissioners are present.

### Chapter 4 Import Relief

#### Article 24

After the MOEA agrees to Commission's recommendation regarding the adoption of import relief measures, it shall, except for the relief measures specified in Sub-paragraph 1 of Paragraph 1, Article 5, which shall be handled in accordance with the relevant provisions of the Customs Act, decide within 60 days on the import relief measures to be adopted, either *ex officio* or in consultation with the relevant government agencies. Subsequently, the MOEA shall issue a public notice on the implementation of such relief measures and report to the Executive Yuan for record. The MOEA may, if necessary, notify and consult with the interested countries before making the decision referred to in the preceding paragraph.

#### Article 25

The implementation of import relief measures shall take into account the impact on the overall economic interests of the country, the interests of consumers, and the relevant industries. Import relief measures shall be limited to remedying or preventing the injury caused to the industry by imports. The period of implementation of an import relief measure shall not exceed four years.

#### Article 26

After a period of time has elapsed since the implementation of import relief measures, if the reasons for implementation have lapsed or the circumstances have changed, the petitioner or interested parties may file a request with the MOEA for the termination or modification of the measures. This request must include substantial reasons and be accompanied by supporting evidence.

The petition referred to in the preceding paragraph shall be submitted no later than 90 days before the expiration of the implementation of the measures.

When a petition referred to in Paragraph 1 has been filed, TITA shall conduct an investigation according to the procedure provided in Chapter 3 and submit the results to the Commission for deliberation on whether to terminate or modify the relief measures. Subsequently, the Commission shall submit its recommendation to the MOEA. If the Ministry accepts the Commission's recommendation, it shall promptly issue a public notice of the termination or modification of the measures.

#### Article 27

Before the expiration of the implementation period of the import relief measures, if the petitioner considers that the implementation period needs to be extended, it may file a petition with the MOEA no later than 120 days before the expiration of the implementation period. The petition must include substantial reasons for the need to extend the measures, as well as an explanation of the industry's

adjustment performance and plan, supported by evidence.

The MOEA shall, within 90 days from the day after receiving the petition for extension, decide whether to extend the import relief measures, and it shall issue a public notice regarding the extended measures and the period of extension. The procedures outlined in Chapters II through IV shall apply *mutatis mutandis* to the handling of the case.

The extent of relief provided by the extended measures referred to in Paragraph 1 shall not exceed that of the original measures. The period of extension shall not exceed four years, and such extension shall be limited to one time.

#### Article 28

TITA shall prepare an annual review report on the results and effects of the implementation of the import relief measures and submit it to the Commission for deliberation. If the Commission believes that the cause for implementing the said measures has lapsed or the circumstances have changed, it shall recommend that the MOEA terminate or modify the measures. If the MOEA accepts the recommendation, it shall promptly issue a public notice of termination or modification of the measures.

For the preparation of the annual review report, TITA shall hold a hearing. The provisions of Articles 15 through 17 shall apply *mutatis mutandis* with respect to the procedure for holding the hearing.

### Chapter 5 Import Relief against Products Under the Early Harvest from Mainland China

#### Article 29

The petitions filed pursuant to Paragraph 1 of Article 18 of the Act, for the investigation on injuries to an industry and the application of import relief measures, may be specific on the products under the Early Harvest from Mainland China.

A case of injury to the industry as referred to in the preceding paragraph is to be established, when there is an increase in the imported quantity of the product under the Early Harvest from Mainland China, or an increase in such imports relating to domestic production, so as to cause or threaten to cause serious injury to the domestic industry producing like products or directly competitive products.

#### Article 30

For those import relief cases in which the existence of injury or threat thereof has been established pursuant to Paragraph 2 of the preceding article, the MOEA may adopt the tariff adjusting measures. The measure as referred to in the preceding paragraph shall be implemented pursuant to relevant provisions of the Customs Act by the Ministry of Finance upon being notified by the MOEA.

#### Article 31

The implementation of the measure as referred to in the preceding article shall take into account its impact on the overall economic interests of the country, consumers' interests, and relevant industries. It shall be limited to remedying or preventing the injury caused to the industry by imports. The period of implementation shall not exceed one year.

#### Article 32

Except for Subparagraph 2 of Paragraph 1 of Article 5, Subparagraph 4 of Paragraph 1 and Paragraph 3 of Article 10, Paragraph 2 of Article 20 and Article 25 to Article 28, Articles in this Regulation shall apply *mutatis mutandis* to this Chapter.

### Chapter 6 Supplement Provisions

#### Article 33

If, during the investigation into the injury caused to the industry by imports, the MOEA finds indications of subsidization as described in Article 67 or dumping as described in Article 68 of the Customs Act, it shall promptly notify both the Ministry of Finance and the petitioner.

#### Article 34

The matters regarding the investigation, determination, consultation, the relief measures, etc. which are not provided for in the Act or this Regulation shall be handled in accordance with the applicable international agreements and practices.

#### Article 35

This Regulation shall enter into force on the date of promulgation.

