进出口公平贸易法律法规规章汇编

商务部

进出口公平贸易局

目　　录

TABLE OF CONTENTS

一　法　律

中华人民共和国对外贸易法

（1994 年 5 月 12 日第八届全国人民代表大会常务委员会第七次会议通过，2004 年 4 月 6 日第十届全国人民代表大会常务委员会第八次会议修订，2004 年 4 月 6 日中华人民共和国主席令第 15 号发布，自 2004 年 7 月 1 日起施行）

第一章　　总 则

第一条 为了扩大对外开放，发展对外贸易，维护对外贸易秩序，保护对外贸易经营者的合法权益，促进社会主义市场经济的健康发展，制定本法。

第二条 本法适用于对外贸易以及与对外贸易有关的知识产权保护。

本法所称对外贸易，是指货物进出口、技术进出口和国际服务贸易。

第三条 国务院对外贸易主管部门依照本法主管全国对外贸易工作。

第四条 国家实行统一的对外贸易制度，鼓励发展对外贸易，维护公平、自由的对外贸易秩序。

第五条 中华人民共和国根据平等互利的原则，促进和发展同其他国家和地区的贸易关系，缔结或者参加关税同盟协定、自由贸易区协定等区域经济贸易协定，参加区域经济组织。

第六条 中华人民共和国在对外贸易方面根据所缔结或者参加的国际条约、协定，给予其他缔约方、参加方最惠国待遇、国民待遇等待遇，或者根据互惠、对等原则给予对方最惠国待遇、国民待遇等待遇。

第七条 任何国家或者地区在贸易方面对中华人民共和国采取歧视性的禁止、限制或者其他类似措施的，中华人民共和国可以根据实际情况对该国家或者该地区采取相应的措施。

第二章 对外贸易经营者

第八条 本法所称对外贸易经营者，是指依法办理工商登记或者其他执业手续，依照本法和其他有关法律、行政法规的规定从事对外贸易经营活动的法人、其他组织或者个人。

第九条 从事货物进出口或者技术进出口的对外贸易经营者，应当向国务院对外贸易主管部门或者其委托的机构办理备案登记；但是，法律、行政法规和国务院对外贸易主管部门规定不需要备案登记的除外。备案登记的具体办法由国务院对外贸易主管部门规定。对外贸易经营者未按照规定办理备案登记的，海关不予办理进出口货物的报关验放手续。

第十条 从事国际服务贸易，应当遵守本法和其他有关法律、行政法规的规定。

从事对外工程承包或者对外劳务合作的单位，应当具备相应的资质或者资格。具体办法由国务院规定。

第十一条 国家可以对部分货物的进出口实行国营贸易管理。实行国营贸易管理货物的进出口业务只能由经授权的企业经营；但是，国家允许部分数量的国营贸易管理货物的进出口业务由非授权企业经营的除外。实行国营贸易管理的货物和经授权经营企业的目录，由国务院对外贸易主管部门会同国务院其他有关部门确定、调整并公布。

违反本条第一款规定，擅自进出口实行国营贸易管理的货物的，海关不予放行。

第十二条 对外贸易经营者可以接受他人的委托，在经营范围内代为办理对外贸易业务。

第十三条 对外贸易经营者应当按照国务院对外贸易主管部门或者国务院其他有关部门依法作出的规定，向有关部门提交与其对外贸易经营活动有关的文件及资料。有关部门应当为提供者保守商业秘密。

第三章　货物进出口与技术进出口

第十四条 国家准许货物与技术的自由进出口。但是，法律、行政法规另有规定的除外。

第十五条 国务院对外贸易主管部门基于监测进出口情况的需要，可以对部分自由进出口的货物实行进出口自动许可并公布其目录。

实行自动许可的进出口货物，收货人、发货人在办理海关报关手续前提出自动许可申请的，国务院对外贸易主管部门或者其委托的机构应当予以许可；未办理自动许可手续的，海关不予放行。

进出口属于自由进出口的技术，应当向国务院对外贸易主管部门或者其委托的机构办理合同备案登记。

第十六条 国家基于下列原因，可以限制或者禁止有关货物、技术的进口或者出口：

（一）为维护国家安全、社会公共利益或者公共道德，需要限制或者禁止进口或者出口的；

（二）为保护人的健康或者安全，保护动物、植物的生命或者健康，保护环境，需要限制或者禁止进口或者出口的；

（三）为实施与黄金或者白银进出口有关的措施，需要限制或者禁止进口或者出口的；

（四）国内供应短缺或者为有效保护可能用竭的自然资源，需要限制或者禁止出口的；

（五）输往国家或者地区的市场容量有限，需要限制出口的；

（六）出口经营秩序出现严重混乱，需要限制出口的；

（七）为建立或者加快建立国内特定产业，需要限制进口的；

（八）对任何形式的农业、牧业、渔业产品有必要限制进口的；

（九）为保障国家国际金融地位和国际收支平衡，需要限制进口的；

（十）依照法律、行政法规的规定，其他需要限制或者禁止进口或者出口的；

（十一）根据我国缔结或者参加的国际条约、协定的规定，其他需要限制或者禁止进口或者出口的。

第十七条 国家对与裂变、聚变物质或者衍生此类物质的物质有关的货物、技术进出口，以及与武器、弹药或者其他军用物资有关的进出口，可以采取任何必要的措施，维护国家安全。

在战时或者为维护国际和平与安全，国家在货物、技术进出口方面可以采取任何必要的措施。

第十八条 国务院对外贸易主管部门会同国务院其他有关部门，依照本法第十六条和第十七条的规定，制定、调整并公布限制或者禁止进出口的货物、技术目录。

国务院对外贸易主管部门或者由其会同国务院其他有关部门，经国务院批准，可以在本法第十六条和第十七条规定的范围内，临时决定限制或者禁止前款规定目录以外的特定货物、技术的进口或者出口。

第十九条 国家对限制进口或者出口的货物，实行配额、许可证等方式管理；对限制进口或者出口的技术，实行许可证管理。

实行配额、许可证管理的货物、技术，应当按照国务院规定经国务院对外贸易主管部门或者经其会同国务院其他有关部门许可，方可进口或者出口。

国家对部分进口货物可以实行关税配额管理。

第二十条 进出口货物配额、关税配额，由国务院对外贸易主管部门或者国务院其他有关部门在各自的职责范围内，按照公开、公平、公正和效益的原则进行分配。具体办法由国务院规定。

第二十一条 国家实行统一的商品合格评定制度，根据有关法律、行政法规的规定，对进出口商品进行认证、检验、检疫。

第二十二条 国家对进出口货物进行原产地管理。具体办法由国务院规定。

第二十三条 对文物和野生动物、植物及其产品等，其他法律、行政法规有禁止或者限制进出口规定的，依照有关法律、行政法规的规定执行。

第四章 国际服务贸易

第二十四条 中华人民共和国在国际服务贸易方面根据所缔结或者参加的国际条约、协定中所作的承诺，给予其他缔约方、参加方市场准入和国民待遇。

第二十五条 国务院对外贸易主管部门和国务院其他有关部门，依照本法和其他有关法律、行政法规的规定，对国际服务贸易进行管理。

第二十六条 国家基于下列原因，可以限制或者禁止有关的国际服务贸易：

（一）为维护国家安全、社会公共利益或者公共道德，需要限制或者禁止的；

（二）为保护人的健康或者安全，保护动物、植物的生命或者健康，保护环境，需要限制或者禁止的；

（三）为建立或者加快建立国内特定服务产业，需要限制的；

（四）为保障国家外汇收支平衡，需要限制的；

（五）依照法律、行政法规的规定，其他需要限制或者禁止的；

（六）根据我国缔结或者参加的国际条约、协定的规定，其他需要限制或者禁止的。

第二十七条 国家对与军事有关的国际服务贸易，以及与裂变、聚变物质或者衍生此类物质的物质有关的国际服务贸易，可以采取任何必要的措施，维护国家安全。

在战时或者为维护国际和平与安全，国家在国际服务贸易方面可以采取任何必要的措施。

第二十八条 国务院对外贸易主管部门会同国务院其他有关部门，依照本法第二十六条、第二十七条和其他有关法律、行政法规的规定，制定、调整并公布国际服务贸易市场准入目录。

第五章 与对外贸易有关的知识产权保护

第二十九条 国家依照有关知识产权的法律、行政法规，保护与对外贸易有关的知识产权。

进口货物侵犯知识产权，并危害对外贸易秩序的，国务院对外贸易主管部门可以采取在一定期限内禁止侵权人生产、销售的有关货物进口等措施。

第三十条 知识产权权利人有阻止被许可人对许可合同中的知识产权的有效性提出质疑、进行强制性一揽子许可、在许可合同中规定排他性返授条件等行为之一，并危害对外贸易公平竞争秩序的，国务院对外贸易主管部门可以采取必要的措施消除危害。

第三十一条 其他国家或者地区在知识产权保护方面未给予中华人民共和国的法人、其他组织或者个人国民待遇，或者不能对来源于中华人民共和国的货物、技术或者服务提供充分有效的知识产权保护的，国务院对外贸易主管部门可以依照本法和其他有关法律、行政法规的规定，并根据中华人民共和国缔结或者参加的国际条约、协定，对与该国家或者该地区的贸易采取必要的措施。

第六章　对外贸易秩序

第三十二条 在对外贸易经营活动中，不得违反有关反垄断的法律、行政法规的规定实施垄断行为。

在对外贸易经营活动中实施垄断行为，危害市场公平竞争的，依照有关反垄断的法律、行政法规的规定处理。有前款违法行为，并危害对外贸易秩序的，国务院对外贸易主管部门可以采取必要的措施消除危害。

第三十三条 在对外贸易经营活动中，不得实施以不正当的低价销售商品、串通投标、发布虚假广告、进行商业贿赂等不正当竞争行为。

在对外贸易经营活动中实施不正当竞争行为的，依照有关反不正当竞争的法律、行政法规的规定处理。

有前款违法行为，并危害对外贸易秩序的，国务院对外贸易主管部门可以采取禁止该经营者有关货物、技术进出口等措施消除危害。

第三十四条 在对外贸易活动中，不得有下列行为：

（一）伪造、变造进出口货物原产地标记，伪造、变造或者买卖进出口货物原产地证书、进出口许可证、进出口配额证明或者其他进出口证明文件；

（二）骗取出口退税；

（三）走私；

（四）逃避法律、行政法规规定的认证、检验、检疫；

（五）违反法律、行政法规规定的其他行为。

第三十五条 对外贸易经营者在对外贸易经营活动中，应当遵守国家有关外汇管理的规定。

第三十六条 违反本法规定，危害对外贸易秩序的，国务院对外贸易主管部门可以向社会公告。

第七章　对外贸易调查

第三十七条 为了维护对外贸易秩序，国务院对外贸易主管部门可以自行或者会同国务院其他有关部门，依照法律、行政法规的规定对下列事项进行调查：

（一）货物进出口、技术进出口、国际服务贸易对国内产业及其竞争力的影响；

（二）有关国家或者地区的贸易壁垒；

（三）为确定是否应当依法采取反倾销、反补贴或者保障措施等对外贸易救济措施，需要调查的事项；

（四）规避对外贸易救济措施的行为；

（五）对外贸易中有关国家安全利益的事项；

（六）为执行本法第七条、第二十九条第二款、第三十条、第三十一条、第三十二条第三款、第三十三条第三款的规定，需要调查的事项；

（七）其他影响对外贸易秩序，需要调查的事项。

第三十八条 启动对外贸易调查，由国务院对外贸易主管部门发布公告。

调查可以采取书面问卷、召开听证会、实地调查、委托调查等方式进行。

国务院对外贸易主管部门根据调查结果，提出调查报告或者作出处理裁定，并发布公告。

第三十九条 有关单位和个人应当对对外贸易调查给予配合、协助。

国务院对外贸易主管部门和国务院其他有关部门及其工作人员进行对外贸易调查，对知悉的国家秘密和商业秘密负有保密义务。

第八章　对外贸易救济

第四十条 国家根据对外贸易调查结果，可以采取适当的对外贸易救济措施。

第四十一条 其他国家或者地区的产品以低于正常价值的倾销方式进入我国市场，对已建立的国内产业造成实质损害或者产生实质损害威胁，或者对建立国内产业造成实质阻碍的，国家可以采取反倾销措施，消除或者减轻这种损害或者损害的威胁或者阻碍。

第四十二条 其他国家或者地区的产品以低于正常价值出口至第三国市场，对我国已建立的国内产业造成实质损害或者产生实质损害威胁，或者对我国建立国内产业造成实质阻碍的，应国内产业的申请，国务院对外贸易主管部门可以与该第三国政府进行磋商，要求其采取适当的措施。

第四十三条 进口的产品直接或者间接地接受出口国家或者地区给予的任何形式的专向性补贴，对已建立的国内产业造成实质损害或者产生实质损害威胁，或者对建立国内产业造成实质阻碍的，国家可以采取反补贴措施，消除或者减轻这种损害或者损害的威胁或者阻碍。

第四十四条 因进口产品数量大量增加，对生产同类产品或者与其直接竞争的产品的国内产业造成严重损害或者严重损害威胁的，国家可以采取必要的保障措施，消除或者减轻这种损害或者损害的威胁，并可以对该产业提供必要的支持。

第四十五条 因其他国家或者地区的服务提供者向我国提供的服务增加，对提供同类服务或者与其直接竞争的服务的国内产业造成损害或者产生损害威胁的，国家可以采取必要的救济措施，消除或者减轻这种损害或者损害的威胁。

第四十六条 因第三国限制进口而导致某种产品进入我国市场的数量大量增加，对已建立的国内产业造成损害或者产生损害威胁，或者对建立国内产业造成阻碍的，国家可以采取必要的救济措施，限制该产品进口。

第四十七条 与中华人民共和国缔结或者共同参加经济贸易条约、协定的国家或者地区，违反条约、协定的规定，使中华人民共和国根据该条约、协定享有的利益丧失或者受损，或者阻碍条约、协定目标实现的，中华人民共和国政府有权要求有关国家或者地区政府采取适当的补救措施，并可以根据有关条约、协定中止或者终止履行相关义务。

第四十八条 国务院对外贸易主管部门依照本法和其他有关法律的规定，进行对外贸易的双边或者多边磋商、谈判和争端的解决。

第四十九条 国务院对外贸易主管部门和国务院其他有关部门应当建立货物进出口、技术进出口和国际服务贸易的预警应急机制，应对对外贸易中的突发和异常情况，维护国家经济安全。

第五十条 国家对规避本法规定的对外贸易救济措施的行为，可以采取必要的反规避措施。

第九章 对外贸易促进

第五十一条 国家制定对外贸易发展战略，建立和完善对外贸易促进机制。

第五十二条 国家根据对外贸易发展的需要，建立和完善为对外贸易服务的金融机构，设立对外贸易发展基金、风险基金。

第五十三条 国家通过进出口信贷、出口信用保险、出口退税及其他促进对外贸易的方式，发展对外贸易。

第五十四条 国家建立对外贸易公共信息服务体系，向对外贸易经营者和其他社会公众提供信息服务。

第五十五条 国家采取措施鼓励对外贸易经营者开拓国际市场，采取对外投资、对外工程承包和对外劳务合作等多种形式，发展对外贸易。

第五十六条 对外贸易经营者可以依法成立和参加有关协会、商会。

有关协会、商会应当遵守法律、行政法规，按照章程对其成员提供与

对外贸易有关的生产、营销、信息、培训等方面的服务，发挥协调和自律作用，依法提出有关对外贸易救济措施的申请，维护成员和行业的利益，向政府有关部门反映成员有关对外贸易的建议，开展对外贸易促进活动。

第五十七条 中国国际贸易促进组织按照章程开展对外联系，举办展览，提供信息、咨询服务和其他对外贸易促进活动。

第五十八条 国家扶持和促进中小企业开展对外贸易。

第五十九条 国家扶持和促进民族自治地方和经济不发达地区发展对外贸易。

第十章 法律责任

第六十条 违反本法第十一条规定，未经授权擅自进出口实行国营贸易管理的货物的，国务院对外贸易主管部门或者国务院其他有关部门可以处五万元以下罚款；情节严重的，可以自行政处罚决定生效之日起三年内，不受理违法行为人从事国营贸易管理货物进出口业务的申请，或者撤销已给予其从事其他国营贸易管理货物进出口的授权。

第六十一条 进出口属于禁止进出口的货物的，或者未经许可擅自进出口属于限制进出口的货物的，由海关依照有关法律、行政法规的规定处理、处罚；构成犯罪的，依法追究刑事责任。

进出口属于禁止进出口的技术的，或者未经许可擅自进出口属于限制进出口的技术的，依照有关法律、行政法规的规定处理、处罚；法律、行政法规没有规定的，由国务院对外贸易主管部门责令改正，没收违法所得，并处违法所得一倍以上五倍以下罚款，没有违法所得或者违法所得不足一万元的，处一万元以上五万元以下罚款；构成犯罪的，依法追究刑事责任。

自前两款规定的行政处罚决定生效之日或者刑事处罚判决生效之日起，国务院对外贸易主管部门或者国务院其他有关部门可以在三年内不受理违法行为人提出的进出口配额或者许可证的申请，或者禁止违法行为人在一年以上三年以下的期限内从事有关货物或者技术的进出口经营活动。

第六十二条 从事属于禁止的国际服务贸易的，或者未经许可擅自从事属于限制的国际服务贸易的，依照有关法律、行政法规的规定处罚；法律、行政法规没有规定的，由国务院对外贸易主管部门责令改正，没收违法所得，并处违法所得一倍以上五倍以下罚款，没有违法所得或者违法所得不足一万元的，处一万元以上五万元以下罚款；构成犯罪的，依法追究刑事责任。

国务院对外贸易主管部门可以禁止违法行为人自前款规定的行政处罚决定生效之日或者刑事处罚判决生效之日起一年以上三年以下的期限内从事有关的国际服务贸易经营活动。

第六十三条 违反本法第三十四条规定，依照有关法律、行政法规的规定处罚；构成犯罪的，依法追究刑事责任。

国务院对外贸易主管部门可以禁止违法行为人自前款规定的行政处罚决定生效之日或者刑事处罚判决生效之日起一年以上三年以下的期限内从事有关的对外贸易经营活动。

第六十四条 依照本法第六十一条至第六十三条规定被禁止从事有关对外贸易经营活动的，在禁止期限内，海关根据国务院对外贸易主管部门依法作出的禁止决定，对该对外贸易经营者的有关进出口货物不予办理报关验放手续，外汇管理部门或者外汇指定银行不予办理有关结汇、售汇手续。

第六十五条 依照本法负责对外贸易管理工作的部门的工作人员玩忽职守、徇私舞弊或者滥用职权，构成犯罪的，依法追究刑事责任；尚不构成犯罪的，依法给予行政处分。

依照本法负责对外贸易管理工作的部门的工作人员利用职务上的便利，索取他人财物，或者非法收受他人财物为他人谋取利益，构成犯罪的，依法追究刑事责任；尚不构成犯罪的，依法给予行政处分。

第六十六条 对外贸易经营活动当事人对依照本法负责对外贸易管理工作的部门作出的具体行政行为不服的，可以依法申请行政复议或者向人

民法院提起行政诉讼。

第十一章 附 则

第六十七条 与军品、裂变和聚变物质或者衍生此类物质的物质有关的对外贸易管理以及文化产品的进出口管理，法律、行政法规另有规定的，依照其规定。

第六十八条 国家对边境地区与接壤国家边境地区之间的贸易以及边民互市贸易，采取灵活措施，给予优惠和便利。具体办法由国务院规定。

第六十九条 中华人民共和国的单独关税区不适用本法。

第七十条 本法自 2004 年 7 月 1 日起施行。

二　法　规

（一）中华人民共和国货物进出口管理条例

（２００１年12月10日中华人民共和国国务院令第332号公布，自２００２年1月1日起施行）

第一章 总　则

第一条 为了规范货物进出口管理，维护货物进出口秩序，促进对外贸易健康发展，根据《中华人民共和国对外贸易法》（以下简称对外贸易法）的有关规定，制定本条例。

第二条 从事将货物进口到中华人民共和国关境内或者将货物出口到中华人民共和国关境外的贸易活动，应当遵守本条例。

第三条 国家对货物进出口实行统一的管理制度。

第四条 国家准许货物的自由进出口，依法维护公平、有序的货物进出口贸易。

除法律、行政法规明确禁止或者限制进出口的外，任何单位和个人均不得对货物进出口设置、维持禁止或者限制措施。

第五条 中华人民共和国在货物进出口贸易方面根据所缔结或者参加的国际条约、协定，给予其他缔约方、参加方最惠国待遇、国民待遇，或者根据互惠、对等原则给予对方最惠国待遇、国民待遇。

第六条 任何国家或者地区在货物进出口贸易方面对中华人民共和国

采取歧视性的禁止、限制或者其他类似措施的，中华人民共和国可以根据实际情况对该国家或者地区采取相应的措施。

第七条 国务院对外经济贸易主管部门（以下简称国务院外经贸主管部门）依照对外贸易法和本条例的规定，主管全国货物进出口贸易工作。

国务院有关部门按照国务院规定的职责，依照本条例的规定负责货物进出口贸易管理的有关工作。

第二章 货物进口管理

第一节 禁止进口的货物

第八条 有对外贸易法第十七条规定情形之一的货物，禁止进口。其他法律、行政法规规定禁止进口的，依照其规定。

禁止进口的货物目录由国务院外经贸主管部门会同国务院有关部门制定、调整并公布。

第九条 属于禁止进口的货物，不得进口。

第二节 限制进口的货物

第十条 有对外贸易法第十六条第（一）、（四）、（五）、（六）、（七）项规定情形之一的货物，限制进口。其他法律、行政法规规定限制进口的，依照其规定。

限制进口的货物目录由国务院外经贸主管部门会同国务院有关部门制定、调整并公布。

限制进口的货物目录，应当至少在实施前 2 1 天公布；在紧急情况下，应当不迟于实施之日公布。

第十一条 国家规定有数量限制的限制进口货物，实行配额管理；其他限制进口货物，实行许可证管理。

实行关税配额管理的进口货物，依照本章第四节的规定执行。

第十二条 实行配额管理的限制进口货物，由国务院外经贸主管部门和国务院有关经济管理部门（以下统称进口配额管理部门）按照国务院规定的职责划分进行管理。

第十三条 对实行配额管理的限制进口货物，进口配额管理部门应当在每年7月31日前公布下一年度进口配额总量。

配额申请人应当在每年8月1日至8月31日向进口配额管理部门提出下一年度进口配额的申请。

进口配额管理部门应当在每年10月31日前将下一年度的配额分配给配额申请人。

进口配额管理部门可以根据需要对年度配额总量进行调整，并在实施前21天予以公布。

第十四条 配额可以按照对所有申请统一办理的方式分配。

第十五条 按照对所有申请统一办理的方式分配配额的，进口配额管理部门应当自规定的申请期限截止之日起60天内作出是否发放配额的决定。

第十六条 进口配额管理部门分配配额时，应当考虑下列因素：

（一）申请人的进口实绩；

（二）以往分配的配额是否得到充分使用；

（三）申请人的生产能力、经营规模、销售状况；

（四）新的进口经营者的申请情况；

（五）申请配额的数量情况；

（六）需要考虑的其他因素。

第十七条 进口经营者凭进口配额管理部门发放的配额证明，向海关办

理报关验放手续。

国务院有关经济管理部门应当及时将年度配额总量、分配方案和配额证明实际发放的情况向国务院外经贸主管部门备案。

第十八条 配额持有者未使用完其持有的年度配额的，应当在当年9月1日前将未使用的配额交还进口配额管理部门；未按期交还并且在当年年底前未使用完的，进口配额管理部门可以在下一年度对其扣减相应的配额。

第十九条 实行许可证管理的限制进口货物，进口经营者应当向国务院外经贸主管部门或者国务院有关部门（以下统称进口许可证管理部门）提出申请。进口许可证管理部门应当自收到申请之日起30天内决定是否许可。

进口经营者凭进口许可证管理部门发放的进口许可证，向海关办理报关验放手续。

前款所称进口许可证，包括法律、行政法规规定的各种具有许可进口性质的证明、文件。

第二十条 进口配额管理部门和进口许可证管理部门应当根据本条例的规定制定具体管理办法，对申请人的资格、受理申请的部门、审查的原则和程序等事项作出明确规定并在实施前予以公布。

受理申请的部门一般为一个部门。

进口配额管理部门和进口许可证管理部门要求申请人提交的文件，应当限于为保证实施管理所必需的文件和资料，不得仅因细微的、非实质性的错讹拒绝接受申请。

第三节 自由进口的货物

第二十一条 进口属于自由进口的货物，不受限制。

第二十二条 基于监测货物进口情况的需要，国务院外经贸主管部门和国务院有关经济管理部门可以按照国务院规定的职责划分，对部分属于自

由进口的货物实行自动进口许可管理。

实行自动进口许可管理的货物目录，应当至少在实施前２１天公布。

第二十三条 进口属于自动进口许可管理的货物，均应当给予许可。

第二十四条 进口属于自动进口许可管理的货物，进口经营者应当在办理海关报关手续前，向国务院外经贸主管部门或者国务院有关经济管理部门提交自动进口许可申请。

国务院外经贸主管部门或者国务院有关经济管理部门应当在收到申请后，立即发放自动进口许可证明；在特殊情况下，最长不得超过１０天。

进口经营者凭国务院外经贸主管部门或者国务院有关经济管理部门发放的自动进口许可证明，向海关办理报关验放手续。

第四节 关税配额管理的货物

第二十五条 实行关税配额管理的进口货物目录，由国务院外经贸主管部门会同国务院有关经济管理部门制定、调整并公布。

第二十六条 属于关税配额内进口的货物，按照配额内税率缴纳关税；属于关税配额外进口的货物，按照配额外税率缴纳关税。

第二十七条 进口配额管理部门应当在每年９月１５日至１０月１４日公布下一年度的关税配额总量。

配额申请人应当在每年１０月１５日至１０月３０日向进口配额管理部门提出关税配额的申请。

第二十八条 关税配额可以按照对所有申请统一办理的方式分配。

第二十九条 按照对所有申请统一办理的方式分配关税配额的，进口配额管理部门应当在每年１２月３１日前作出是否发放配额的决定。

第三十条 进口经营者凭进口配额管理部门发放的关税配额证明，向海关办理关税配额内货物的报关验放手续。

国务院有关经济管理部门应当及时将年度关税配额总量、分配方案和关税配额证明实际发放的情况向国务院外经贸主管部门备案。

第三十一条 关税配额持有者未使用完其持有的年度配额的，应当在当年9月15日前将未使用的配额交还进口配额管理部门；未按期交还并且在当年年底前未使用完的，进口配额管理部门可以在下一年度对其扣减相应的配额。

第三十二条 进口配额管理部门应当根据本条例的规定制定有关关税配额的具体管理办法，对申请人的资格、受理申请的部门、审查的原则和程序等事项作出明确规定并在实施前予以公布。

受理申请的部门一般为一个部门。

进口配额管理部门要求关税配额申请人提交的文件，应当限于为保证实施关税配额管理所必需的文件和资料，不得仅因细微的、非实质性的错讹拒绝接受关税配额申请。

第三章 货物出口管理

第一节 禁止出口的货物

第三十三条 有对外贸易法第十七条规定情形之一的货物，禁止出口。其他法律、行政法规规定禁止出口的，依照其规定。

禁止出口的货物目录由国务院外经贸主管部门会同国务院有关部门制定、调整并公布。

第三十四条 属于禁止出口的货物，不得出口。

第二节 限制出口的货物

第三十五条 有对外贸易法第十六条第（一）、（二）、（三）、（七）项规定情形之一的货物，限制出口。其他法律、行政法规规定限制出口的，依

照其规定。

限制出口的货物目录由国务院外经贸主管部门会同国务院有关部门制定、调整并公布。

限制出口的货物目录，应当至少在实施前２１天公布；在紧急情况下，应当不迟于实施之日公布。

第三十六条 国家规定有数量限制的限制出口货物，实行配额管理；其他限制出口货物，实行许可证管理。

第三十七条 实行配额管理的限制出口货物，由国务院外经贸主管部门和国务院有关经济管理部门（以下统称出口配额管理部门）按照国务院规定的职责划分进行管理。

第三十八条 对实行配额管理的限制出口货物，出口配额管理部门应当在每年１０月３１日前公布下一年度出口配额总量。

配额申请人应当在每年１１月１日至１１月１５日向出口配额管理部门提出下一年度出口配额的申请。

出口配额管理部门应当在每年１２月１５日前将下一年度的配额分配给配额申请人。

第三十九条 配额可以通过直接分配的方式分配，也可以通过招标等方式分配。

第四十条 出口配额管理部门应当自收到申请之日起３０天内并不晚于当年１２月１５日作出是否发放配额的决定。

第四十一条 出口经营者凭出口配额管理部门发放的配额证明，向海关办理报关验放手续。

国务院有关经济管理部门应当及时将年度配额总量、分配方案和配额证明实际发放的情况向国务院外经贸主管部门备案。

第四十二条 配额持有者未使用完其持有的年度配额的，应当在当年１

0月31日前将未使用的配额交还出口配额管理部门；未按期交还并且在当年年底前未使用完的，出口配额管理部门可以在下一年度对其扣减相应的配额。

第四十三条 实行许可证管理的限制出口货物，出口经营者应当向国务院外经贸主管部门或者国务院有关部门（以下统称出口许可证管理部门）提出申请，出口许可证管理部门应当自收到申请之日起30天内决定是否许可。

出口经营者凭出口许可证管理部门发放的出口许可证，向海关办理报关验放手续。

前款所称出口许可证，包括法律、行政法规规定的各种具有许可出口性质的证明、文件。

第四十四条 出口配额管理部门和出口许可证管理部门应当根据本条例的规定制定具体管理办法，对申请人的资格、受理申请的部门、审查的原则和程序等事项作出明确规定并在实施前予以公布。

受理申请的部门一般为一个部门。

出口配额管理部门和出口许可证管理部门要求申请人提交的文件，应当限于为保证实施管理所必需的文件和资料，不得仅因细微的、非实质性的错讹拒绝接受申请。

第四章 国营贸易和指定经营

第四十五条 国家可以对部分货物的进出口实行国营贸易管理。

实行国营贸易管理的进出口货物目录由国务院外经贸主管部门会同国务院有关经济管理部门制定、调整并公布。

第四十六条 国务院外经贸主管部门和国务院有关经济管理部门按照国务院规定的职责划分确定国营贸易企业名录并予以公布。

第四十七条 实行国营贸易管理的货物，国家允许非国营贸易企业从事部分数量的进出口。

第四十八条 国营贸易企业应当每半年向国务院外经贸主管部门提供实行国营贸易管理的货物的购买价格、销售价格等有关信息。

第四十九条 国务院外经贸主管部门基于维护进出口经营秩序的需要，可以在一定期限内对部分货物实行指定经营管理。

实行指定经营管理的进出口货物目录由国务院外经贸主管部门制定、调整并公布。

第五十条 确定指定经营企业的具体标准和程序，由国务院外经贸主管部门制定并在实施前公布。

指定经营企业名录由国务院外经贸主管部门公布。

第五十一条 除本条例第四十七条规定的情形外，未列入国营贸易企业名录和指定经营企业名录的企业或者其他组织，不得从事实行国营贸易管理、指定经营管理的货物的进出口贸易。

第五十二条 国营贸易企业和指定经营企业应当根据正常的商业条件从事经营活动，不得以非商业因素选择供应商，不得以非商业因素拒绝其他企业或者组织的委托。

第五章 进出口监测和临时措施

第五十三条 国务院外经贸主管部门负责对货物进出口情况进行监测、评估，并定期向国务院报告货物进出口情况，提出建议。

第五十四条 国家为维护国际收支平衡，包括国际收支发生严重失衡或者受到严重失衡威胁时，或者为维持与实施经济发展计划相适应的外汇储备水平，可以对进口货物的价值或者数量采取临时限制措施。

第五十五条 国家为建立或者加快建立国内特定产业，在采取现有措施无法实现的情况下，可以采取限制或者禁止进口的临时措施。

第五十六条 国家为执行下列一项或者数项措施，必要时可以对任何形式的农产品水产品采取限制进口的临时措施：

（一）对相同产品或者直接竞争产品的国内生产或者销售采取限制措施；

（二）通过补贴消费的形式，消除国内过剩的相同产品或者直接竞争产品；

（三）对完全或者主要依靠该进口农产品水产品形成的动物产品采取限产措施。

第五十七条 有下列情形之一的，国务院外经贸主管部门可以对特定货物的出口采取限制或者禁止的临时措施：

（一）发生严重自然灾害等异常情况，需要限制或者禁止出口的；

（二）出口经营秩序严重混乱，需要限制出口的；

（三）依照对外贸易法第十六条、第十七条的规定，需要限制或者禁止出口的。

第五十八条 对进出口货物采取限制或者禁止的临时措施的，国务院外经贸主管部门应当在实施前予以公告。

第六章 对外贸易促进

第五十九条 国家采取出口信用保险、出口信贷、出口退税、设立外贸发展基金等措施，促进对外贸易发展。

第六十条 国家采取有效措施，促进企业的技术创新和技术进步，提高企业的国际竞争能力。

第六十一条 国家通过提供信息咨询服务，帮助企业开拓国际市场。

第六十二条 货物进出口经营者可以依法成立和参加进出口商会，实行行业自律和协调。

第六十三条 国家鼓励企业积极应对国外歧视性反倾销、反补贴、保障措施及其他限制措施，维护企业的正当贸易权利。

第七章 法律责任

第六十四条 进口或者出口属于禁止进出口的货物，或者未经批准、许可擅自进口或者出口属于限制进出口的货物的，依照刑法关于走私罪的规定，依法追究刑事责任；尚不够刑事处罚的，依照海关法的有关规定处罚；国务院外经贸主管部门并可以撤销其对外贸易经营许可。

第六十五条 擅自超出批准、许可的范围进口或者出口属于限制进出口的货物的，依照刑法关于走私罪或者非法经营罪的规定，依法追究刑事责任；尚不够刑事处罚的，依照海关法的有关规定处罚；国务院外经贸主管部门并可以暂停直至撤销其对外贸易经营许可。

第六十六条 伪造、变造或者买卖货物进出口配额证明、批准文件、许可证或者自动进口许可证明的，依照刑法关于非法经营罪或者伪造、变造、买卖国家机关公文、证件、印章罪的规定，依法追究刑事责任；尚不够刑事处罚的，依照海关法的有关规定处罚；国务院外经贸主管部门并可以撤销其对外贸易经营许可。

第六十七条 进出口经营者以欺骗或者其他不正当手段获取货物进出口配额、批准文件、许可证或者自动进口许可证明的，依法收缴其货物进出口配额、批准文件、许可证或者自动进口许可证明，国务院外经贸主管部门可以暂停直至撤销其对外贸易经营许可。

第六十八条 违反本条例第五十一条规定，擅自从事实行国营贸易管理

或者指定经营管理的货物进出口贸易，扰乱市场秩序，情节严重的，依照刑法关于非法经营罪的规定，依法追究刑事责任；尚不够刑事处罚的，由工商行政管理机关依法给予行政处罚；国务院外经贸主管部门并可以暂停直至撤销其对外贸易经营许可。

第六十九条 国营贸易企业或者指定经营企业违反本条例第四十八条、第五十二条规定的，由国务院外经贸主管部门予以警告；情节严重的，可以暂停直至取消其国营贸易企业或者指定经营企业资格。

第七十条 货物进出口管理工作人员在履行货物进出口管理职责中，滥用职权、玩忽职守或者利用职务上的便利收受、索取他人财物的，依照刑法关于滥用职权罪、玩忽职守罪、受贿罪或者其他罪的规定，依法追究刑事责任；尚不够刑事处罚的，依法给予行政处分。

第八章 附 则

第七十一条 对本条例规定的行政机关发放配额、关税配额、许可证或者自动许可证明的决定不服的，对确定国营贸易企业或者指定经营企业资格的决定不服的，或者对行政处罚的决定不服的，可以依法申请行政复议，也可以依法向人民法院提起诉讼。

第七十二条 本条例的规定不妨碍依据法律、行政法规对进出口货物采取的关税、检验检疫、安全、环保、知识产权保护等措施。

第七十三条 出口核用品、核两用品、监控化学品、军品等出口管制货物的，依照有关行政法规的规定办理。

第七十四条 对进口货物需要采取反倾销措施、反补贴措施、保障措施的，依照对外贸易法和有关法律、行政法规的规定执行。

第七十五条 法律、行政法规对保税区、出口加工区等特殊经济区的货物进出口管理另有规定的，依照其规定。

第七十六条 国务院外经贸主管部门负责有关货物进出口贸易的双边或者多边磋商、谈判，并负责贸易争端解决的有关事宜。

第七十七条 本条例自２００２年1月1日起施行。１９８４年1月10日国务院发布的《中华人民共和国进口货物许可制度暂行条例》，１９９２年１２月２１日国务院批准、１９９２年１２月２９日对外经济贸易部发布的《出口商品管理暂行办法》，１９９３年9月２２日国务院批准、１９９３年１０月7日国家经济贸易委员会、对外贸易经济合作部发布的《机电产品进口管理暂行办法》，１９９３年１２月２２日国务院批准、１９９３年１２月２９日国家计划委员会、对外贸易经济合作部发布的《一般商品进口配额管理暂行办法》，１９９４年6月１３日国务院批准、１９９４年7月１９日对外贸易经济合作部、国家计划委员会发布的《进口商品经营管理暂行办法》，同时废止。

（二）中华人民共和国反倾销条例

（2001年11月26日中华人民共和国国务院令第328号公布 根据2004年3月31日《国务院关于修改〈中华人民共和国反倾销条例〉的决定》修订）

第一章　总　则

第一条 为了维护对外贸易秩序和公平竞争，根据《中华人民共和国对外贸易法》的有关规定，制定本条例。

第二条 进口产品以倾销方式进入中华人民共和国市场，并对已经建立的国内产业造成实质损害或者产生实质损害威胁，或者对建立国内产业造成实质阻碍的，依照本条例的规定进行调查，采取反倾销措施。

第二章　倾销与损害

第三条 倾销，是指在正常贸易过程中进口产品以低于其正常价值的出口价格进入中华人民共和国市场。

对倾销的调查和确定，由商务部负责。

第四条 进口产品的正常价值，应当区别不同情况，按照下列方法确定：

（一） 进口产品的同类产品，在出口国（地区）国内市场的正常贸易过程中有可比价格的，以该可比价格为正常价值；

（二） 进口产品的同类产品，在出口国（地区）国内市场的正常贸易过程中没有销售的，或者该同类产品的价格、数量不能据以进行公平比较的，以该同类产品出口到一个适当第三国（地区）的可比价格或者以该同类产品在原产国（地区）的生产成本加合理费用、利润，为正常价值。

进口产品不直接来自原产国（地区）的，按照前款第（一）项规定确

定正常价值；但是，在产品仅通过出口国（地区）转运、产品在出口国（地区）无生产或者在出口国（地区）中不存在可比价格等情形下，可以以该同类产品在原产国（地区）的价格为正常价值。

第五条 进口产品的出口价格，应当区别不同情况，按照下列方法确定；

（一） 进口产品有实际支付或者应当支付的价格的，以该价格为出口价格；

（二）进口产品没有出口价格或者其价格不可靠的，以根据该进口产品首次转售给独立购买人的价格推定的价格为出口价格；但是，该进口产品未转售给独立购买人或者未按进口时的状态转售的，可以以商务部根据合理基础推定的价格为出口价格。

第六条 进口产品的出口价格低于其正常价值的幅度，为倾销幅度。

对进口产品的出口价格和正常价值，应当考虑影响价格的各种可比性因素，按照公平、合理的方式进行比较。

倾销幅度的确定，应当将加权平均正常价值与全部可比出口交易的加权平均价格进行比较，或者将正常价值与出口价格在逐笔交易的基础上进行比较。

出口价格在不同的购买人、地区、时期之间存在很大差异，按照前款规定的方法难以比较的，可以将加权平均正常价值与单一出口交易的价格进行比较。

第七条 损害，是指倾销对已经建立的国内产业造成实质损害或者产生实质损害威胁，或者对建立国内产业造成实质阻碍。

对损害的调查和确定，由商务部负责；其中，涉及农产品的反倾销国内产业损害调查，由商务部会同农业部进行。

第八条 在确定倾销对国内产业造成的损害时，应当审查下列事项：

（一）倾销进口产品的数量，包括倾销进口产品的绝对数量或者相对

于国内同类产品生产或者消费的数量是否大量增加，或者倾销进口产品大量增加的可能性；

（二）倾销进口产品的价格，包括倾销进口产品的价格削减或者对国内同类产品的价格产生大幅度抑制、压低等影响；

（三）倾销进口产品对国内产业的相关经济因素和指标的影响；

（四）倾销进口产品的出口国（地区）、原产国（地区）的生产能力、出口能力，被调查产品的库存情况；

（五）造成国内产业损害的其他因素。

对实质损害威胁的确定，应当依据事实，不得仅依据指控、推测或者极小的可能性。

在确定倾销对国内产业造成的损害时，应当依据肯定性证据，不得将造成损害的非倾销因素归因于倾销。

第九条 倾销进口产品来自两个以上国家（地区），并且同时满足下列条件的，可以就倾销进口产品对国内产业造成的影响进行累积评估：

（一）来自每一国家（地区）的倾销进口产品的倾销幅度不小于 2%，并且其进口量不属于可忽略不计的；

（二）根据倾销进口产品之间以及倾销进口产品与国内同类产品之间的竞争条件，进行累积评估是适当的。

可忽略不计，是指来自一个国家（地区）的倾销进口产品的数量占同类产品总进口量的比例低于 3%；但是，低于 3%的若干国家（地区）的总进口量超过同类产品总进口量 7%的除外。

第十条 评估倾销进口产品的影响，应当针对国内同类产品的生产进行单独确定；不能针对国内同类产品的生产进行单独确定的，应当审查包括国内同类产品在内的最窄产品组或者范围的生产。

第十一条 国内产业，是指中华人民共和国国内同类产品的全部生产

者，或者其总产量占国内同类产品全部总产量的主要部分的生产者；但是，国内生产者与出口经营者或者进口经营者有关联的，或者其本身为倾销进口产品的进口经营者的，可以排除在国内产业之外。

在特殊情形下，国内一个区域市场中的生产者，在该市场中销售其全部或者几乎全部的同类产品，并且该市场中同类产品的需求主要不是由国内其他地方的生产者供给的，可以视为一个单独产业。

第十二条 同类产品，是指与倾销进口产品相同的产品；没有相同产品的，以与倾销进口产品的特性最相似的产品为同类产品。

第三章 反倾销调查

第十三条 国内产业或者代表国内产业的自然人、法人或者有关组织（以下统称申请人），可以依照本条例的规定向商务部提出反倾销调查的书面申请。

第十四条 申请书应当包括下列内容：

（一）申请人的名称、地址及有关情况；

（二）对申请调查的进口产品的完整说明，包括产品名称、所涉及的出口国（地区）或者原产国（地区）、已知的出口经营者或者生产者、产品在出口国（地区）或者原产国（地区）国内市场消费时的价格信息、出口价格信息等；

（三）对国内同类产品生产的数量和价值的说明；

（四）申请调查进口产品的数量和价格对国内产业的影响；

（五）申请人认为需要说明的其他内容。

第十五条 申请书应当附具下列证据：

（一）申请调查的进口产品存在倾销；

（二）对国内产业的损害；

（三）倾销与损害之间存在因果关系。

第十六条 商务部应当自收到申请人提交的申请书及有关证据之日起60天内，对申请是否由国内产业或者代表国内产业提出、申请书内容及所附具的证据等进行审查，并决定立案调查或者不立案调查。

在决定立案调查前，应当通知有关出口国（地区）政府。

第十七条 在表示支持申请或者反对申请的国内产业中，支持者的产量占支持者和反对者的总产量的50%以上的，应当认定申请是由国内产业或者代表国内产业提出，可以启动反倾销调查；但是，表示支持申请的国内生产者的产量不足国内同类产品总产量的25%的，不得启动反倾销调查。

第十八条 在特殊情形下，商务部没有收到反倾销调查的书面申请，但有充分证据认为存在倾销和损害以及二者之间有因果关系的，可以决定立案调查。

第十九条 立案调查的决定，由商务部予以公告，并通知申请人、已知的出口经营者和进口经营者、出口国（地区）政府以及其他有利害关系的组织、个人（以下统称利害关系方）。

立案调查的决定一经公告，商务部应当将申请书文本提供给已知的出口经营者和出口国（地区）政府。

第二十条 商务部可以采用问卷、抽样、听证会、现场核查等方式向利害关系方了解情况，进行调查。

商务部应当为有关利害关系方提供陈述意见和论据的机会。

商务部认为必要时，可以派出工作人员赴有关国家（地区）进行调查；但是，有关国家（地区）提出异议的除外。

第二十一条 商务部进行调查时，利害关系方应当如实反映情况，提供有关资料。利害关系方不如实反映情况、提供有关资料的，或者没有在合理时间内提供必要信息的，或者以其他方式严重妨碍调查的，商务部可以

根据已经获得的事实和可获得的最佳信息作出裁定。

第二十二条 利害关系方认为其提供的资料泄露后将产生严重不利影响的，可以向商务部申请对该资料按保密资料处理。

商务部认为保密申请有正当理由的，应当对利害关系方提供的资料按保密资料处理，同时要求利害关系方提供一份非保密的该资料概要。

按保密资料处理的资料，未经提供资料的利害关系方同意，不得泄露。

第二十三条 商务部应当允许申请人和利害关系方查阅本案有关资料；但是，属于按保密资料处理的除外。

第二十四条商务部根据调查结果，就倾销、损害和二者之间的因果关系是否成立作出初裁决定，并予以公告。

第二十五条 初裁决定确定倾销、损害以及二者之间的因果关系成立的，商务部应当对倾销及倾销幅度、损害及损害程度继续进行调查，并根据调查结果作出终裁决定，予以公告。

在作出终裁决定前，应当由商务部将终裁决定所依据的基本事实通知所有已知的利害关系方。

第二十六条 反倾销调查，应当自立案调查决定公告之日起 12 个月内结束；特殊情况下可以延长，但延长期不得超过 6 个月。

第二十七条 有下列情形之一的，反倾销调查应当终止，并由商务部予以公告：

（一）申请人撤销申请的；

（二）没有足够证据证明存在倾销、损害或者二者之间有因果关系的；

（三）倾销幅度低于 2%的；

（四）倾销进口产品实际或者潜在的进口量或者损害属于可忽略不计的；

（五）商务部认为不适宜继续进行反倾销调查的。

来自一个或者部分国家（地区）的被调查产品有前款第（二）、（三）、（四）项所列情形之一的，针对所涉产品的反倾销调查应当终止。

第四章　反倾销措施

第一节　临时反倾销措施

第二十八条 初裁决定确定倾销成立，并由此对国内产业造成损害的，可以采取下列临时反倾销措施：

（一）征收临时反倾销税；

（二）要求提供保证金、保函或者其他形式的担保。

临时反倾销税税额或者提供的保证金、保函或者其他形式担保的金额，应当不超过初裁决定确定的倾销幅度。

第二十九条 征收临时反倾销税，由商务部提出建议，国务院关税税则委员会根据商务部的建议作出决定，由商务部予以公告。要求提供保证金、保函或者其他形式的担保，由商务部作出决定并予以公告。海关自公告规定实施之日起执行。

第三十条 临时反倾销措施实施的期限，自临时反倾销措施决定公告规定实施之日起，不超过 4 个月；在特殊情形下，可以延长至 9 个月。

自反倾销立案调查决定公告之日起 60 天内，不得采取临时反倾销措施。

第二节　价格承诺

第三十一条 倾销进口产品的出口经营者在反倾销调查期间，可以向商务部作出改变价格或者停止以倾销价格出口的价格承诺。

商务部可以向出口经营者提出价格承诺的建议。

商务部不得强迫出口经营者作出价格承诺。

第三十二条 出口经营者不作出价格承诺或者不接受价格承诺的建议的，不妨碍对反倾销案件的调查和确定。出口经营者继续倾销进口产品的，商务部有权确定损害威胁更有可能出现。

第三十三条 商务部认为出口经营者作出的价格承诺能够接受并符合公共利益的，可以决定中止或者终止反倾销调查，不采取临时反倾销措施或者征收反倾销税。中止或者终止反倾销调查的决定由商务部予以公告。

商务部不接受价格承诺的，应当向有关出口经营者说明理由。

商务部对倾销以及由倾销造成的损害作出肯定的初裁决定前，不得寻求或者接受价格承诺。

第三十四条 依照本条例第三十三条第一款规定中止或者终止反倾销调查后，应出口经营者请求，商务部应当对倾销和损害继续进行调查；或者商务部认为有必要的，可以对倾销和损害继续进行调查。

根据前款调查结果，作出倾销或者损害的否定裁定的，价格承诺自动失效；作出倾销和损害的肯定裁定的，价格承诺继续有效。

第三十五条 商务部可以要求出口经营者定期提供履行其价格承诺的有关情况、资料，并予以核实。

第三十六条 出口经营者违反其价格承诺的，商务部依照本条例的规定，可以立即决定恢复反倾销调查；根据可获得的最佳信息，可以决定采取临时反倾销措施，并可以对实施临时反倾销措施前 90 天内进口的产品追溯征收反倾销税，但违反价格承诺前进口的产品除外。

第三节 反倾销税

第三十七条 终裁决定确定倾销成立，并由此对国内产业造成损害的，可以征收反倾销税。征收反倾销税应当符合公共利益。

第三十八条 征收反倾销税，由商务部提出建议，国务院关税税则委员

会根据商务部的建议作出决定，由商务部予以公告。海关自公告规定实施之日起执行。

第三十九条 反倾销税适用于终裁决定公告之日后进口的产品，但属于本条例第三十六条、第四十三条、第四十四条规定的情形除外。

第四十条 反倾销税的纳税人为倾销进口产品的进口经营者。

第四十一条 反倾销税应当根据不同出口经营者的倾销幅度，分别确定。对未包括在审查范围内的出口经营者的倾销进口产品，需要征收反倾销税的，应当按照合理的方式确定对其适用的反倾销税。

第四十二条 反倾销税税额不超过终裁决定确定的倾销幅度。

第四十三条 终裁决定确定存在实质损害，并在此前已经采取临时反倾销措施的，反倾销税可以对已经实施临时反倾销措施的期间追溯征收。

终裁决定确定存在实质损害威胁，在先前不采取临时反倾销措施将会导致后来作出实质损害裁定的情况下已经采取临时反倾销措施的，反倾销税可以对已经实施临时反倾销措施的期间追溯征收。

终裁决定确定的反倾销税，高于已付或者应付的临时反倾销税或者为担保目的而估计的金额的，差额部分不予收取；低于已付或者应付的临时反倾销税或者为担保目的而估计的金额的，差额部分应当根据具体情况予以退还或者重新计算税额。

第四十四条 下列两种情形并存的，可以对实施临时反倾销措施之日前90天内进口的产品追溯征收反倾销税，但立案调查前进口的产品除外：

（一）倾销进口产品有对国内产业造成损害的倾销历史，或者该产品的进口经营者知道或者应当知道出口经营者实施倾销并且倾销对国内产业将造成损害的；

（二）倾销进口产品在短期内大量进口，并且可能会严重破坏即将实施的反倾销税的补救效果的。

商务部发起调查后，有充分证据证明前款所列两种情形并存的，可以对有关进口产品采取进口登记等必要措施，以便追溯征收反倾销税。

第四十五条 终裁决定确定不征收反倾销税的，或者终裁决定未确定追溯征收反倾销税的，已征收的临时反倾销税、已收取的保证金应当予以退还，保函或者其他形式的担保应当予以解除。

第四十六条 倾销进口产品的进口经营者有证据证明已经缴纳的反倾销税税额超过倾销幅度的，可以向商务部提出退税申请；商务部经审查、核实并提出建议，国务院关税税则委员会根据商务部的建议可以作出退税决定，由海关执行。

第四十七条 进口产品被征收反倾销税后，在调查期内未向中华人民共和国出口该产品的新出口经营者，能证明其与被征收反倾销税的出口经营者无关联的，可以向商务部申请单独确定其倾销幅度。商务部应当迅速进行审查并作出终裁决定。在审查期间，可以采取本条例第二十八条第一款第（二）项规定的措施，但不得对该产品征收反倾销税。

第五章 反倾销税和价格承诺的期限与复审

第四十八条 反倾销税的征收期限和价格承诺的履行期限不超过 5 年；但是，经复审确定终止征收反倾销税有可能导致倾销和损害的继续或者再度发生的，反倾销税的征收期限可以适当延长。

第四十九条 反倾销税生效后，商务部可以在有正当理由的情况下，决定对继续征收反倾销税的必要性进行复审；也可以在经过一段合理时间，应利害关系方的请求并对利害关系方提供的相应证据进行审查后，决定对继续征收反倾销税的必要性进行复审。

价格承诺生效后，商务部可以在有正当理由的情况下，决定对继续履行价格承诺的必要性进行复审；也可以在经过一段合理时间，应利害关系方的请求并对利害关系方提供的相应证据进行审查后，决定对继续履行价格承诺的必要性进行复审。

第五十条 根据复审结果，由商务部依照本条例的规定提出保留、修改或者取消反倾销税的建议，国务院关税税则委员会根据商务部的建议作出决定，由商务部予以公告；或者由商务部依照本条例的规定，作出保留、修改或者取消价格承诺的决定并予以公告。

第五十一条 复审程序参照本条例关于反倾销调查的有关规定执行。

复审期限自决定复审开始之日起，不超过 12 个月。

第五十二条 在复审期间，复审程序不妨碍反倾销措施的实施。

第六章 附则

第五十三条 对依照本条例第二十五条作出的终裁决定不服的，对依照本条例第四章作出的是否征收反倾销税的决定以及追溯征收、退税、对新出口经营者征税的决定不服的，或者对依照本条例第五章作出的复审决定不服的，可以依法申请行政复议，也可以依法向人民法院提起诉讼。

第五十四条 依照本条例作出的公告，应当载明重要的情况、事实、理由、依据、结果和结论等内容。

第五十五条 商务部可以采取适当措施，防止规避反倾销措施的行为。

第五十六条 任何国家(地区)对中华人民共和国的出口产品采取歧视性反倾销措施的，中华人民共和国可以根据实际情况对该国家(地区)采取相应的措施。

第五十七条 商务部负责与反倾销有关的对外磋商、通知和争端解决事宜。

第五十八条 商务部可以根据本条例制定有关具体实施办法。

第五十九条 本条例自 2002 年 1 月 1 日起施行。1997 年 3 月 25 日国务院发布的《中华人民共和国反倾销和反补贴条例》中关于反倾销的规定同时废止。

（三）中华人民共和国反补贴条例

（2001 年 11 月 26 日中华人民共和国国务院令第 329 号公布，根据 2004 年 3 月 31 日《国务院关于修改〈中华人民共和国反补贴条例〉的决定》修订）

第一章　总　则

第一条 为了维护对外贸易秩序和公平竞争，根据《中华人民共和国对外贸易法》的有关规定，制定本条例。

第二条 进口产品存在补贴，并对已经建立的国内产业造成实质损害或者产生实质损害威胁，或者对建立国内产业造成实质阻碍的，依照本条例的规定进行调查，采取反补贴措施。

第二章　补贴与损害

第三条 补贴，是指出口国（地区）政府或者其任何公共机构提供的并为接受者带来利益的财政资助以及任何形式的收入或者价格支持。

出口国（地区）政府或者其任何公共机构，以下统称出口国（地区）政府。

本条第一款所称财政资助，包括：

（一）出口国（地区）政府以拨款、贷款、资本注入等形式直接提供资金，或者以贷款担保等形式潜在地直接转让资金或者债务；

（二）出口国（地区）政府放弃或者不收缴应收收入；

（三）出口国（地区）政府提供除一般基础设施以外的货物、服务，或者由出口国（地区）政府购买货物；

（四）出口国（地区）政府通过向筹资机构付款，或者委托、指令私

营机构履行上述职能。

第四条 依照本条例进行调查、采取反补贴措施的补贴，必须具有专向性。

具有下列情形之一的补贴，具有专向性：

（一）由出口国（地区）政府明确确定的某些企业、产业获得的补贴；

（二）由出口国（地区）法律、法规明确规定的某些企业、产业获得的补贴；

（三）指定特定区域内的企业、产业获得的补贴；

（四）以出口实绩为条件获得的补贴，包括本条例所附出口补贴清单列举的各项补贴；

（五）以使用本国（地区）产品替代进口产品为条件获得的补贴。

在确定补贴专向性时，还应当考虑受补贴企业的数量和企业受补贴的数额、比例、时间以及给与补贴的方式等因素。

第五条 对补贴的调查和确定，由商务部负责。

第六条 进口产品的补贴金额，应当区别不同情况，按照下列方式计算：

（一）以无偿拨款形式提供补贴的，补贴金额以企业实际接受的金额计算；

（二）以贷款形式提供补贴的，补贴金额以接受贷款的企业在正常商业贷款条件下应支付的利息与该项贷款的利息差额计算；

（三）以贷款担保形式提供补贴的，补贴金额以在没有担保情况下企业应支付的利息与有担保情况下企业实际支付的利息之差计算；

（四）以注入资本形式提供补贴的，补贴金额以企业实际接受的资本金额计算；

（五）以提供货物或者服务形式提供补贴的，补贴金额以该项货物或

者服务的正常市场价格与企业实际支付的价格之差计算；

（六）以购买货物形式提供补贴的，补贴金额以政府实际支付价格与该项货物正常市场价格之差计算；

（七）以放弃或者不收缴应收收入形式提供补贴的，补贴金额以依法应缴金额与企业实际缴纳金额之差计算。

对前款所列形式以外的其他补贴，按照公平，合理的方式确定补贴金额。

第七条 损害，是指补贴对已经建立的国内产业造成实质损害或者产生实质损害威胁，或者对建立国内产业造成实质阻碍。

对损害的调查和确定，由商务部负责；其中，涉及农产品的反补贴国内产业损害调查，由商务部会同农业部进行。

第八条 在确定补贴对国内产业造成的损害时，应当审查下列事项：

（一）补贴可能对贸易造成的影响；

（二）补贴进口产品的数量，包括补贴进口产品的绝对数量或者相对于国内同类产品生产或者消费的数量是否大量增加，或者补贴进口产品大量增加的可能性；

（三）补贴进口产品的价格，包括补贴进口产品的价格削减或者对国内同类产品的价格产生大幅度抑制、压低等影响；

（四）补贴进口产品对国内产业的相关经济因素和指标的影响；

（五）补贴进口产品出口国（地区）、原产国（地区）的生产能力、出口能力，被调查产品的库存情况；

（六）造成国内产业损害的其他因素。

对实质损害威胁的确定，应当依据事实，不得仅依据指控、推测或者极小的可能性。

在确定补贴对国内产业造成的损害时，应当依据肯定性证据，不得将造成损害的非补贴因素归因于补贴。

第九条 补贴进口产品来自两个以上国家（地区），并且同时满足下列条件的，可以就补贴进口产品对国内产业造成的影响进行累积评估：

（一）来自每一国家（地区）的补贴进口产品的补贴金额不属于微量补贴，并且其进口量不属于可忽略不计的；

（二）根据补贴进口产品之间的竞争条件以及补贴进口产品与国内同类产品之间的竞争条件，进行累积评估是适当的。

微量补贴，是指补贴金额不足产品价值1%的补贴；但是，来自发展中国家（地区）的补贴进口产品的微量补贴，是指补贴金额不足产品价值2%的补贴。

第十条 评估补贴进口产品的影响，应当对国内同类产品的生产进行单独确定。不能对国内同类产品的生产进行单独确定的，应当审查包括国内同类产品在内的最窄产品组或者范围的生产。

第十一条 国内产业，是指中华人民共和国国内同类产品的全部生产者，或者其总产量占国内同类产品全部总产量的主要部分的生产者；但是，国内生产者与出口经营者或者进口经营者有关联的，或者其本身为补贴产品或者同类产品的进口经营者的，应当除外。

在特殊情形下，国内一个区域市场中的生产者，在该市场中销售其全部或者几乎全部的同类产品，并且该市场中同类产品的需求主要不是由国内其他地方的生产者供给的，可以视为一个单独产业。

第十二条 同类产品，是指与补贴进口产品相同的产品；没有相同产品的，以与补贴进口产品的特性最相似的产品为同类产品。

第三章 反补贴调查

第十三条 国内产业或者代表国内产业的自然人、法人或者有关组织

（以下统称申请人），可以依照本条例的规定向商务部提出反补贴调查的书面申请。

第十四条 申请书应当包括下列内容：

（一）申请人的名称、地址及有关情况；

（二）对申请调查的进口产品的完整说明，包括产品名称、所涉及的出口国（地区）或者原产国（地区）、已知的出口经营者或者生产者等；

（三）对国内同类产品生产的数量和价值的说明；

（四）申请调查进口产品的数量和价格对国内产业的影响；

（五）申请人认为需要说明的其他内容。

第十五条 申请书应当附具下列证据：

（一）申请调查的进口产品存在补贴；

（二）对国内产业的损害；

（三）补贴与损害之间存在因果关系。

第十六条 商务部应当自收到申请人提交的申请书及有关证据之日起60天内，对申请是否由国内产业或者代表国内产业提出、申请书内容及所附具的证据等进行审查，并决定立案调查或者不立案调查。在特殊情形下，可以适当延长审查期限。

在决定立案调查前，应当就有关补贴事项向产品可能被调查的国家（地区）政府发出进行磋商的邀请。

第十七条 在表示支持申请或者反对申请的国内产业中，支持者的产量占支持者和反对者的总产量的50%以上的，应当认定申请是由国内产业或者代表国内产业提出，可以启动反补贴调查；但是，表示支持申请的国内生产者的产量不足国内同类产品总产量的25%的，不得启动反补贴调查。

第十八条 在特殊情形下，商务部没有收到反补贴调查的书面申请，但

有充分证据认为存在补贴和损害以及二者之间有因果关系的，可以决定立案调查。

第十九条 立案调查的决定，由商务部予以公告，并通知申请人、已知的出口经营者、进口经营者以及其他有利害关系的组织、个人（以下统称利害关系方）和出口国（地区）政府。

立案调查的决定一经公告，商务部应当将申请书文本提供给已知的出口经营者和出口国（地区）政府。

第二十条商务部可以采用问卷、抽样、听证会、现场核查等方式向利害关系方了解情况，进行调查。

商务部应当为有关利害关系方、利害关系国（地区）政府提供陈述意见和论据的机会。

商务部认为必要时，可以派出工作人员赴有关国家（地区）进行调查；但是，有关国家（地区）提出异议的除外。

第二十一条 商务部进行调查时，利害关系方、利害关系国（地区）政府应当如实反映情况，提供有关资料。利害关系方、利害关系国（地区）政府不如实反映情况、提供有关资料的，或者没有在合理时间内提供必要信息的，或者以其他方式严重妨碍调查的，商务部可以根据可获得的事实作出裁定。

第二十二条 利害关系方、利害关系国（地区）政府认为其提供的资料泄露后将产生严重不利影响的，可以向商务部申请对该资料按保密资料处理。

商务部认为保密申请有正当理由的，应当对利害关系方、利害关系国（地区）政府提供的资料按保密资料处理，同时要求利害关系方、利害关系国（地区）政府提供一份非保密的该资料概要。

按保密资料处理的资料，未经提供资料的利害关系方、利害关系国（地区）政府同意，不得泄露。

第二十三条 商务部应当允许申请人、利害关系方和利害关系国（地区）政府查阅本案有关资料；但是，属于按保密资料处理的除外。

第二十四条 在反补贴调查期间，应当给予产品被调查的国家（地区）政府继续进行磋商的合理机会。磋商不妨碍商务部根据本条例的规定进行调查，并采取反补贴措施。

第二十五条 商务部根据调查结果，就补贴、损害和二者之间的因果关系是否成立作出初裁决定，并予以公告。

第二十六条 初裁决定确定补贴、损害以及二者之间的因果关系成立的，商务部应当对补贴及补贴金额、损害及损害程度继续进行调查，并根据调查结果作出终裁决定，予以公告。

在作出终裁决定前，应当由商务部将终裁决定所依据的基本事实通知所有已知的利害关系方、利害关系国（地区）政府。

第二十七条 反补贴调查，应当自立案调查决定公告之日起 12 个月内结束；特殊情况下可以延长，但延长期不得超过 6 个月。

第二十八条 有下列情形之一的，反补贴调查应当终止，并由商务部予以公告：

（一）申请人撤销申请的；

（二）没有足够证据证明存在补贴、损害或者二者之间有因果关系的；

（三）补贴金额为微量补贴的；

（四）补贴进口产品实际或者潜在的进口量或者损害属于可忽略不计的；

（五）通过与有关国家（地区）政府磋商达成协议，不需要继续进行反补贴调查的；

（六）商务部认为不适宜继续进行反补贴调查的。

来自一个或者部分国家（地区）的被调查产品有前款第（二）、（三）、（四）、（五）项所列情形之一的，针对所涉产品的反补贴调查应当终止。

第四章　反补贴措施

第一节　临时措施

第二十九条 初裁决定确定补贴成立，并由此对国内产业造成损害的，可以采取临时反补贴措施。

临时反补贴措施采取以保证金或者保函作为担保的征收临时反补贴税的形式。

第三十条 采取临时反补贴措施，由商务部提出建议，国务院关税税则委员会根据商务部的建议作出决定，由商务部予以公告。海关自公告规定实施之日起执行。

第三十一条 临时反补贴措施实施的期限，自临时反补贴措施决定公告规定实施之日起，不超过 4 个月。

自反补贴立案调查决定公告之日起 60 天内，不得采取临时反补贴措施。

第二节　承诺

第三十二条 在反补贴调查期间，出口国（地区）政府提出取消、限制补贴或者其他有关措施的承诺，或者出口经营者提出修改价格的承诺的，商务部应当予以充分考虑。

商务部可以向出口经营者或者出口国（地区）政府提出有关价格承诺的建议。

商务部不得强迫出口经营者作出承诺。

第三十三条 出口经营者、出口国（地区）政府不作出承诺或者不接受有关价格承诺的建议的，不妨碍对反补贴案件的调查和确定。出口经营者

继续补贴进口产品的，商务部有权确定损害威胁更有可能出现。

第三十四条 商务部认为承诺能够接受并符合公共利益的，可以决定中止或者终止反补贴调查，不采取临时反补贴措施或者征收反补贴税。中止或者终止反补贴调查的决定由商务部予以公告。

商务部不接受承诺的，应当向有关出口经营者说明理由。

商务部对补贴以及由补贴造成的损害作出肯定的初裁决定前，不得寻求或者接受承诺。在出口经营者作出承诺的情况下，未经其本国（地区）政府同意的，商务部不得寻求或者接受承诺。

第三十五条 依照本条例第三十四条第一款规定中止或者终止调查后，应出口国（地区）政府请求，商务部应当对补贴和损害继续进行调查；或者商务部认为有必要的，可以对补贴和损害继续进行调查。

根据调查结果，作出补贴或者损害的否定裁定的，承诺自动失效；作出补贴和损害的肯定裁定的，承诺继续有效。

第三十六条 商务部可以要求承诺已被接受的出口经营者或者出口国（地区）政府定期提供履行其承诺的有关情况、资料，并予以核实。

第三十七条 对违反承诺的，商务部依照本条例的规定，可以立即决定恢复反补贴调查；根据可获得的最佳信息，可以决定采取临时反补贴措施，并可以对实施临时反补贴措施前 90 天内进口的产品追溯征收反补贴税，但违反承诺前进口的产品除外。

第三节 反补贴税

第三十八条 在为完成磋商的努力没有取得效果的情况下，终裁决定确定补贴成立，并由此对国内产业造成损害的，可以征收反补贴税。征收反补贴税应当符合公共利益。

第三十九条 征收反补贴税，由商务部提出建议，国务院关税税则委员会根据商务部的建议作出决定，由商务部予以公告。海关自公告规定实施

之日起执行。

第四十条 反补贴税适用于终裁决定公告之日后进口的产品，但属于本条例第三十七条、第四十四条、第四十五条规定的情形除外。

第四十一条 反补贴税的纳税人为补贴进口产品的进口经营者。

第四十二条 反补贴税应当根据不同出口经营者的补贴金额，分别确定。对实际上未被调查的出口经营者的补贴进口产品，需要征收反补贴税的，应当迅速审查，按照合理的方式确定对其适用的反补贴税。

第四十三条 反补贴税税额不得超过终裁决定确定的补贴金额。

第四十四条 终裁决定确定存在实质损害，并在此前已经采取临时反补贴措施的，反补贴税可以对已经实施临时反补贴措施的期间追溯征收。

终裁决定确定存在实质损害威胁，在先前不采取临时反补贴措施将会导致后来作出实质损害裁定的情况下已经采取临时反补贴措施的，反补贴税可以对已经实施临时反补贴措施的期间追溯征收。

终裁决定确定的反补贴税，高于保证金或者保函所担保的金额的，差额部分不予收取；低于保证金或者保函所担保的金额的，差额部分应当予以退还。

第四十五条 下列三种情形并存的，必要时可以对实施临时反补贴措施之日前 90 天内进口的产品追溯征收反补贴税：

（一）补贴进口产品在较短的时间内大量增加；

（二）此种增加对国内产业造成难以补救的损害；

（三）此种产品得益于补贴。

第四十六条 终裁决定确定不征收反补贴税的，或者终裁决定未确定追溯征收反补贴税的，对实施临时反补贴措施期间已收取的保证金应当予以退还，保函应当予以解除。

第五章　反补贴税和承诺的期限与复审

第四十七条 反补贴税的征收期限和承诺的履行期限不超过 5 年；但是，经复审确定终止征收反补贴税有可能导致补贴和损害的继续或者再度发生的，反补贴税的征收期限可以适当延长。

第四十八条 反补贴税生效后，商务部可以在有正当理由的情况下，决定对继续征收反补贴税的必要性进行复审；也可以在经过一段合理时间，应利害关系方的请求并对利害关系方提供的相应证据进行审查后，决定对继续征收反补贴税的必要性进行复审。

承诺生效后，商务部可以在有正当理由的情况下，决定对继续履行承诺的必要性进行复审；也可以在经过一段合理时间，应利害关系方的请求并对利害关系方提供的相应证据进行审查后，决定对继续履行承诺的必要性进行复审。

第四十九条 根据复审结果，由商务部依照本条例的规定提出保留、修改或者取消反补贴税的建议，国务院关税税则委员会根据商务部的建议作出决定，由商务部予以公告；或者由商务部依照本条例的规定，作出保留、修改或者取消承诺的决定并予以公告。

第五十条 复审程序参照本条例关于反补贴调查的有关规定执行。

复审期限自决定复审开始之日起，不超过 12 个月。

第五十一条 在复审期间，复审程序不妨碍反补贴措施的实施。

第六章　附　则

第五十二条 对依照本条例第二十六条作出的终裁决定不服的，对依照本条例第四章作出的是否征收反补贴税的决定以及追溯征收的决定不服的，或者对依照本条例第五章作出的复审决定不服的，可以依法申请行政复议，也可以依法向人民法院提起诉讼。

第五十三条 依照本条例作出的公告，应当载明重要的情况、事实、理由、依据、结果和结论等内容。

第五十四条 商务部可以采取适当措施，防止规避反补贴措施的行为。

第五十五条 任何国家（地区）对中华人民共和国的出口产品采取歧视性反补贴措施的，中华人民共和国可以根据实际情况对该国家（地区）采取相应的措施。

第五十六条 商务部负责与反补贴有关的对外磋商、通知和争端解决事宜。

第五十七条 商务部可以根据本条例制定有关具体实施办法。

第五十八条 本条例自 2002 年 1 月 1 日起施行。1997 年 3 月 25 日国务院发布的《中华人民共和国反倾销和反补贴条例》中关于反补贴的规定同时废止。

附：

出口补贴清单

1．出口国（地区）政府根据出口实绩对企业、产业提供的直接补贴。

2．与出口奖励有关的外汇留成或者类似做法。

3．出口国（地区）政府规定或者经出口国（地区）政府批准对出口货物提供的国内运输或者运费条件优于对国内货物提供的条件。

4．出口国（地区）政府直接或者间接地为生产出口产品提供产品或者服务的条件，优于其为生产国内产品提供的相关产品或者服务的条件，但特殊情形除外。

5.对企业已付或者应付的与出口产品特别有关的直接税或者社会福利费，实行全部或者部分的减免或者延迟缴纳。

６．在计算直接税征税基数时，直接与出口产品或者出口实绩相关的扣除优于国内产品的扣除。

７．对与出口产品的生产和流通有关的间接税的减免或者退还，超过对国内同类产品所征收的间接税。

８.对用于生产出口产品的货物或者服务所征收的先期累积间接税的减免、退还或者延迟缴纳，优于对用于生产国内同类产品的货物或者服务所征收的先期累积间接税的减免、退还或者延迟缴纳，但特殊情形除外。

９．对与生产出口产品有关的进口投入物减免或者退还进口费用，超过对此类投入物在进口时所收取的费用，但特殊情形除外。

１０．出口国（地区）政府以不足以弥补长期营业成本和亏损的费率，提供的出口信贷担保或者保险，或者针对出口产品成本增加或者外汇风险提供保险或者担保。

１１．出口国（地区）政府给予出口信贷的利率低于使用该项资金实际支付的利率，或者为出口商或者其他金融机构支付为获得贷款所产生的全部或者部分费用，使其在出口信贷方面获得优势，但特殊情形除外。

１２．由公共账户支出的构成出口补贴的其他费用。

（四）中华人民共和国保障措施条例

（2001 年 11 月 26 日中华人民共和国国务院令第 330 号公布　根据 2004 年 3 月 31 日《国务院关于修改〈中华人民共和国保障措施条例〉的决定》修订）

第一章　总　　则

第一条　为了促进对外贸易健康发展，根据《中华人民共和国对外贸易法》的有关规定，制定本条例。

第二条　进口产品数量增加，并对生产同类产品或者直接竞争产品的国内产业造成严重损害或者严重损害威胁（以下除特别指明外，统称损害）的，依照本条例的规定进行调查，采取保障措施。

第二章　调　　查

第三条　与国内产业有关的自然人、法人或者其他组织（以下统称申请人），可以依照本条例的规定，向商务部提出采取保障措施的书面申请。

商务部应当及时对申请人的申请进行审查，决定立案调查或者不立案调查。

第四条　商务部没有收到采取保障措施的书面申请，但有充分证据认为国内产业因进口产品数量增加而受到损害的，可以决定立案调查。

第五条　立案调查的决定，由商务部予以公告。

商务部应当将立案调查的决定及时通知世界贸易组织保障措施委员会（以下简称保障措施委员会）。

第六条　对进口产品数量增加及损害的调查和确定，由商务部负责；其中，涉及农产品的保障措施国内产业损害调查，由商务部会同农业部进行。

第七条　进口产品数量增加，是指进口产品数量的绝对增加或者与国内生产相比的相对增加。

第八条　在确定进口产品数量增加对国内产业造成的损害时，应当审查下列相关因素：

（一）进口产品的绝对和相对增长率与增长量；

（二）增加的进口产品在国内市场中所占的份额；

（三）进口产品对国内产业的影响，包括对国内产业在产量、销售水平、市场份额、生产率、设备利用率、利润与亏损、就业等方面的影响；

（四）造成国内产业损害的其他因素。

对严重损害威胁的确定，应当依据事实，不能仅依据指控、推测或者极小的可能性。

在确定进口产品数量增加对国内产业造成的损害时，不得将进口增加以外的因素对国内产业造成的损害归因于进口增加。

第九条　在调查期间，商务部应当及时公布对案情的详细分析和审查的相关因素等。

第十条　国内产业，是指中华人民共和国国内同类产品或者直接竞争产品的全部生产者，或者其总产量占国内同类产品或者直接竞争产品全部总产量的主要部分的生产者。

第十一条　商务部应当根据客观的事实和证据，确定进口产品数量增加与国内产业的损害之间是否存在因果关系。

第十二条　商务部应当为进口经营者、出口经营者和其他利害关系方提供陈述意见和论据的机会。

调查可以采用调查问卷的方式，也可以采用听证会或者其他方式。

第十三条　调查中获得的有关资料，资料提供方认为需要保密的，商务部可以按保密资料处理。

保密申请有理由的，应当对资料提供方提供的资料按保密资料处理，同时要求资料提供方提供一份非保密的该资料概要。

按保密资料处理的资料，未经资料提供方同意，不得泄露。

第十四条　进口产品数量增加、损害的调查结果及其理由的说明，由商务部予以公布。

商务部应当将调查结果及有关情况及时通知保障措施委员会。

第十五条　商务部根据调查结果，可以作出初裁决定，也可以直接作出终裁决定，并予以公告。

第三章　保障措施

第十六条　有明确证据表明进口产品数量增加，在不采取临时保障措施将对国内产业造成难以补救的损害的紧急情况下，可以作出初裁决定，并采取临时保障措施。

临时保障措施采取提高关税的形式。

第十七条　采取临时保障措施，由商务部提出建议，国务院关税税则委员会根据商务部的建议作出决定，由商务部予以公告。海关自公告规定实施之日起执行。

在采取临时保障措施前，商务部应当将有关情况通知保障措施委员会。

第十八条　临时保障措施的实施期限，自临时保障措施决定公告规定实施之日起，不超过 200 天。

第十九条　终裁决定确定进口产品数量增加，并由此对国内产业造成损害的，可以采取保障措施。实施保障措施应当符合公共利益。

保障措施可以采取提高关税、数量限制等形式。

第二十条　保障措施采取提高关税形式的，由商务部提出建议，国务院关税税则委员会根据商务部的建议作出决定，由商务部予以公告；采取数量限制形式的，由商务部作出决定并予以公告。海关自公告规定实施之日起执行。

商务部应当将采取保障措施的决定及有关情况及时通知保障措施委员会。

第二十一条　采取数量限制措施的，限制后的进口量不得低于最近 3 个有代表性年度的平均进口量；但是，有正当理由表明为防止或者补救严重损害而有必要采取不同水平的数量限制措施的除外。

采取数量限制措施，需要在有关出口国（地区）或者原产国（地区）之间进行数量分配的，商务部可以与有关出口国（地区）或者原产国（地区）就数量的分配进行磋商。

第二十二条　保障措施应当针对正在进口的产品实施，不区分产品来源国（地区）。

第二十三条　采取保障措施应当限于防止、补救严重损害并便利调整国内产业所必要的范围内。

第二十四条　在采取保障措施前，商务部应当为与有关产品的出口经营者有实质利益的国家（地区）政府提供磋商的充分机会。

第二十五条　终裁决定确定不采取保障措施的，已征收的临时关税应当予以退还。

第四章　保障措施的期限与复审

第二十六条　保障措施的实施期限不超过 4 年。

符合下列条件的，保障措施的实施期限可以适当延长：

（一）按照本条例规定的程序确定保障措施对于防止或者补救严重损害仍然有必要；

（二）有证据表明相关国内产业正在进行调整；

（三）已经履行有关对外通知、磋商的义务；

（四）延长后的措施不严于延长前的措施。

一项保障措施的实施期限及其延长期限，最长不超过 10 年。

第二十七条　保障措施实施期限超过 1 年的，应当在实施期间内按固定时间间隔逐步放宽。

第二十八条　保障措施实施期限超过 3 年的，商务部应当在实施期间内对该项措施进行中期复审。

复审的内容包括保障措施对国内产业的影响、国内产业的调整情况等。

第二十九条　保障措施属于提高关税的，商务部应当根据复审结果，依照本条例的规定，提出保留、取消或者加快放宽提高关税措施的建议，国务院关税税则委员会根据商务部的建议作出决定，由商务部予以公告；保障措施属于数量限制或者其他形式的，商务部应当根据复审结果，依照本条例的规定，作出保留、取消或者加快放宽数量限制措施的决定并予以公告。

第三十条　对同一进口产品再次采取保障措施的，与前次采取保障措施的时间间隔应当不短于前次采取保障措施的实施期限，并且至少为 2 年。

符合下列条件的，对一产品实施的期限为 180 天或者少于 180 天的保障措施，不受前款限制：

（一）自对该进口产品实施保障措施之日起，已经超过 1 年；

（二）自实施该保障措施之日起 5 年内，未对同一产品实施 2 次以上保障措施。

第五章　附　　则

第三十一条　任何国家（地区）对中华人民共和国的出口产品采取歧视性保障措施的，中华人民共和国可以根据实际情况对该国家（地区）采取相应的措施。

第三十二条　商务部负责与保障措施有关的对外磋商、通知和争端解决事宜。

第三十三条　商务部可以根据本条例制定具体实施办法。

第三十四条　本条例自 2002 年 1 月 1 日起施行。

三 部门规章

中华人民共和国商务部公告 2003 年第 30 号

根据十届全国人大一次会议批准的国务院机构改革方案和《国务院关于机构设置的通知》(国发[2003]8 号)，决定组建商务部，作为主管国内外贸易和国际经济合作的国务院组成部门。根据《国务院办公厅关于印发商务部主要职责内设机构和人员编制规定的通知》(国办发[2003]29 号)，将原对外贸易经济合作部职责、原国家经济贸易委员会的内贸管理、对外经济协调、产业损害调查和重要工业品、原材料进出口计划组织实施等职责和国家发展计划委员会组织实施农产品进出口计划的职责划入商务部。

我部对原对外贸易经济合作部(含原对外经济贸易部)、原国家经济贸易委员会(含原国家经济委员会)、原国内贸易部(局)、原国家发展计划委员会发布的属于划入商务部职责的部门规章和规范性文件进行了清理。经清理，属于商务部职责的部门规章和规范性文件中有 362 件(见附件)的主管部门或执行机构为原对外贸易经济合作部(含原对外经济贸易部)、原国家经济贸易委员会(含原国家经济委员会)、原国内贸易部(局)或原国家发展计划委员会。为实现商务部行政管理职责和相关工作的平稳过渡和顺利衔接，现决定将附件所列的部门规章和规范性文件中的原对外贸易经济合作部

(含原对外经济贸易部)、原国家经济贸易委员会(含原国家经济委员会)、原国内贸易部(局)、原国家发展计划委员会统一修改为"商务部"。

特此公告。

二00三年七月十日

附件：属于商务部职责需修改主管部门或执行机构名称的规章和规范性文件

（节选）

	……		
340	中华人民共和国对外贸易经济合作部反倾销调查听证会暂行规则	对外贸易经济合作部	对外贸易经济合作部令2002年第3号　2002年1月16日
341	反倾销调查立案暂行规则	对外贸易经济合作部	对外贸易经济合作部令2002年第8号　2002年2月10日
342	反倾销调查实地核查暂行规则	对外贸易经济合作部	对外贸易经济合作部令2002年第13号　2002年3月13日
343	反倾销问卷调查暂行规则	对外贸易经济合作部	对外贸易经济合作部令2002年第14号　2002年3月13日

344	反倾销调查抽样暂行规则	对外贸易经济合作部	对外贸易经济合作部令2002年第15号 2002年3月13日
345	反倾销调查信息披露暂行规则	对外贸易经济合作部	对外贸易经济合作部令2002年第18号 2002年3月13日
346	反倾销调查公开信息查阅暂行规则	对外贸易经济合作部	对外贸易经济合作部令2002年第19号 2002年3月13日
347	反倾销价格承诺暂行规则	对外贸易经济合作部	对外贸易经济合作部令2002年第20号 2002年3月13日
348	反倾销新出口商复审暂行规则	对外贸易经济合作部	对外贸易经济合作部令2002年第21号 2002年3月13日
349	反倾销退税暂行规则	对外贸易经济合作部	对外贸易经济合作部令2002年第22号 2002年3月13日
350	倾销及倾销幅度期中复审暂行规则	对外贸易经济合作部	对外贸易经济合作部令2002年第23号 2002年3月13日
351	关于反倾销产品范围调整程序的暂行规则	对外贸易经济合作部	对外贸易经济合作部令2002年第37号 2002年12月13日

352	反补贴调查立案暂行规则	对外贸易经济合作部	对外贸易经济合作部令2002年第12号 2002年2月10日
353	反补贴问卷调查暂行规则	对外贸易经济合作部	对外贸易经济合作部令2002年第16号 2002年3月13日
354	反补贴调查听证会暂行规则	对外贸易经济合作部	对外贸易经济合作部令2002年第10号 2002年2月10日
355	反补贴调查实地核查暂行规则	对外贸易经济合作部	对外贸易经济合作部令2002年第17号 2002年3月13日
356	保障措施调查立案暂行规则	对外贸易经济合作部	对外贸易经济合作部令2002年第9号 2002年2月10日
357	保障措施调查听证会暂行规则	对外贸易经济合作部	对外贸易经济合作部令2002年第11号 2002年2月10日
358	关于保障措施产品范围调整程序的暂行规则	对外贸易经济合作部	对外贸易经济合作部令2002年第38号 2002年12月13日
359	对外贸易壁垒调查暂行规则	对外贸易经济合作部	对外贸易经济合作部令2002年第31号 2002年9月23日

360	出口产品反倾销应诉规定	对外贸易经济合作部	对外贸易经济合作部令2001年第5号　2001年10月11日
361	关于印发《关于鼓励和敦促企业参加国外反倾销案件应诉的若干规定》的通知	对外贸易经济合作部办公厅	[1999]外经贸法字第3号 1999年3月10日

（一）反倾销

反倾销调查立案暂行规则

(2002 年 2 月 10 日对外贸易经济合作部第 8 号令发布)

第一章　总　　则

第一条　为了规范反倾销调查申请及立案程序，根据《中华人民共和国反倾销条例》的规定，制定本规则。

第二条　对外贸易经济合作部（以下简称外经贸部）指定进出口公平贸易局负责实施本规则。

第三条　外经贸部可以应申请人的申请立案，进行反倾销调查；也可以自行立案，进行反倾销调查。

第二章　申请人资格

第四条　国内产业或者代表国内产业的自然人、法人或者有关组织（以下统称申请人）可以提起反倾销调查申请。

第五条　国内产业是指中华人民共和国国内同类产品的全部生产者，或者其总产量占国内同类产品全部总产量的 50%以上的生产者。

第六条　申请人的产量占国内同类产品总产量虽不足 50%，但如果表示支持申请和反对申请的国内生产者中，支持者的产量占支持者和反对者的总产量的 50%以上，并且表示支持申请的国内生产者的产量不低于同类产品总产量 25%的，该申请应被视为代表国内产业提出。

在确定本条第一款支持者的产量时，申请人的产量应当计算在内。

第七条　国内产业十分分散而涉及生产者数量巨大的，外经贸部可以采用统计学上有效的抽样方式审查申请人的资格。

第八条　国内生产者与出口商或者进口商有关联的，或者其本身为申请调查进口产品的进口商的，可以排除在国内产业之外。

第九条　国内一个区域市场中的生产者，在该市场中销售其全部或者几乎全部的同类产品，并且该市场中同类产品的需求主要不是由国内其他地方的生产者供给的，可以视为一个单独产业。

第三章　申　请

第十条　反倾销调查申请应以书面形式提出。申请书应载明正式请求外经贸部立案进行反倾销调查的意思表示，并由申请人或其合法授权人盖章或签字。

第十一条　反倾销调查申请应包括下列内容并附具相关证据材料：

（一）申请人的有关情况；

（二）申请调查进口产品的已知生产商、出口商、进口商；

（三）申请调查进口产品、国内同类产品的完整说明及二者的比较；

（四）倾销及倾销幅度；

（五）国内产业受到损害的情况；

（六）倾销与损害之间的因果关系；

（七）申请人认为需要说明的其他事项。

第十二条　申请人有关情况的说明，应当包括以下的证据材料：

（一）　申请人的名称、法定代表人、地址、电话、传真、邮政编码、联系人等有关情况；

（二）申请人委托代理人的，应当说明代理人的名称及身份等事项，

并提供授权委托书；

（三）申请提出前三年申请人生产的同类产品的产量及所占国内同类产品总产量的比例；

（四） 所有已知的国内同类产品的生产者的清单，如果国内同类产品的生产者组成了协会或商会，应提供该协会、商会的名称、地址、电话、传真、邮政编码、联系人等有关情况。

第十三条　关于申请调查进口产品的已知生产商、出口商、进口商，申请人应当提供以下证据材料：

（一） 申请调查进口产品的初步描述；

（二） 申请调查进口产品的已知生产商、出口商、进口商的名称、法定代表人、地址、电话、传真、邮政编码、联系人等有关情况。

第十四条　关于申请调查进口产品、国内同类产品的描述及二者的比较，申请人应当提供以下的证据材料：

（一） 申请调查进口产品的详细描述，包括产品名称、种类、规格、产品用途及市场情况、中华人民共和国关税税则号等；

（二） 申请调查进口产品的原产国（地区）或出口国（地区）；

（三）国内同类产品的详细描述，包括该产品的名称、种类、规格、产品用途和市场情况等；

（四）申请调查进口产品与国内同类产品异同点比较，包括产品的物理特征、化学性能、生产工艺、替代性、价格和用途等方面。

第十五条　关于出口价格，申请人应当提供申请调查进口产品在申请提出前 12 个月中实际支付或应予支付的价格。

上述证据材料可以用实际成交价格、报价单、价格单、海关统计数据、有代表性机构或刊物的统计数据等方式提供。

第十六条　关于正常价值，申请人应当提供国外同类产品在出口国（地区）或原产地国（地区）正常贸易中用于消费的可比价格；没有可比价格或可比价格不能获得的，申请人应当提供申请调查进口产品的结构价格或者向第三国出口的价格。

申请人在提供申请调查进口产品的结构价格的证据材料时，应包括该产品的生产成本及合理费用的证据材料；如果不能获得实际结构价格的，申请人可以按照其本身的生产要素及该要素在出口国（地区）的价格或国际市场的通行价格计算。

上述证据材料可以用实际成交价格、价格单或者有代表性机构或刊物的统计数据等方式提供。

第十七条　关于价格调整和价格比较，申请人应当对正常价值、出口价格在销售条件、条款、税收、贸易环节、数量、物理特征等方面做适当调整，在对正常价值和出口价格进行比较时，应当尽可能在同一贸易环节、相同时间的销售、出厂前的水平上进行。

第十八条　申请人应当对倾销幅度进行初步估算，估算应以调整后的正常价值的加权平均值减去调整后的出口价格的加权平均值除以到岸价（CIF）加权平均值的方法计算。

申请人以其他方法计算的，应当说明理由。

第十九条　国内产业损害的情况，主要包括国内产业损害的类型（实质损害、实质损害威胁或实质阻碍国内产业建立）、申请调查进口产品的数量变化及价格变化、对国内同类产品的价格影响、对国内产业相关经济因素和指标的影响等方面。

第二十条　以对国内产业造成实质损害为由提出申请的，申请人应当提供下列证据：

（一）申请调查进口产品的绝对数量或相对国内同类产品的生产或消费的增长情况，自申请提出前三年的进口数量情况及变动幅度，上述数量

变动幅度曲线图表等；

（二）申请调查进口产品自申请提出前三年在中国国内销售的平均价格、平均价格变动图表等；

（三）申请调查进口产品的价格对国内同类产品价格的影响情况，包括国内同类产品价格削减情况、对国内同类产品的价格压低和抑制情况、影响国内产品价格的变动值等；

（四）申请调查进口产品对国内产业有关经济指标或因素的影响，包括销售、利润、产量、市场份额、生产率、投资收益或设备利用率实际和潜在的下降、影响国内价格的因素、倾销幅度的大小、现金流动、就业、工资、筹措资金或投资能力及库存等。

上述某个别指标、因素不适用的，申请人应当予以说明。

第二十一条　以对国内产业造成实质损害威胁为由提出申请的，申请人应当提供下列证据：

（一）申请调查进口产品以倾销价格进入国内市场的大幅增长的可能性，包括出口国（地区）现有及潜在的出口能力、出口国（地区）的库存等情况；

（二）本规则第二十条第（四）项所列因素或指标的可明显预见和迫近的变化趋势。

第二十二条　以对国内产业的建立造成实质阻碍为由提出申请的，申请人除应提供本规则第二十条、二十一条所列证据外，还应提供国内产业可能发展的相关证据，包括产业建立的计划以及实际实施的有关情况。

第二十三条　申请人在主张申请调查进口产品对国内产业的影响及提供证据材料时，应当针对国内同类产品的生产进行单独确定；不能针对国内同类产品的生产进行单独确定的，应当以包括国内同类产品在内的最窄产品组或者范围的生产确定。

第二十四条　关于倾销与损害之间的因果关系，申请人应当提供：

（一）申请调查进口产品与国内产业损害存在因果关系的论证；

（二）未以倾销价格销售的进口产品的数量和价格、需求的减少或消费模式的变化、国外或国内生产者的限制贸易的做法及它们之间的竞争、技术发展以及国内产业的出口实绩和生产率等对国内产业损害影响的说明。

申请人认为上述某个别因素不适用的，应予说明。

第二十五条　申请人在提供本章所规定的证据材料时，应当说明证据来源。

第二十六条　反倾销调查申请中如涉及保密材料的，申请人应当提出保密申请；对于保密材料，申请人应当提交使案件其他利害关系方能够对保密材料有合理了解的非保密概要；如果申请人不能提供非保密概要，应当说明理由。

第二十七条　反倾销调查申请书及证据材料应当采用中文印刷体形式；国家有统一规定术语的，应当采用规范用语。

申请人所提供的证据材料是外文的，申请人应当提供该材料的外文全文，并提供相关部分的中文翻译件。

第二十八条　反倾销调查申请应当分为保密文本（如果申请人提出保密申请）和公开文本。保密文本和公开文本均应提交正本 1 份，副本 6 份；公开文本除提交正本 1 份，副本 6 份外，还应当按已知的申请调查进口产品的出口国（地区）政府的数量提供副本，如涉及已知的申请调查进口产品的出口国（地区）政府的数量过多，可以适当减少但不能低于 5 份。

第二十九条　进出口公平贸易局可以要求申请人提供申请书及证据材料的电子数据载体。

第三十条　申请人应当以邮寄或直接送达等方式将书面申请书及证据

材料递交进出口公平贸易局。

第三十一条　申请人正式递交申请书及证据材料，进出口公平贸易局应予签收。签收之日为进出口公平贸易局收到申请书及证据材料之日。

第四章　立　　案

第三十二条　进出口公平贸易局可以采取问卷或实地核查等方式对申请书及证据材料中包括申请人的资格、申请调查进口产品等问题进行调查。

第三十三条　进出口公平贸易局应当自对申请书及证据材料签收之日起 60 天内，对申请人的反倾销调查申请进行审查并提出意见，经商国家经贸委后，决定立案调查或者不立案调查。

第三十四条　进出口公平贸易局应当自对申请书及证据材料签收之日起 7 日内将申请书及证据材料的副本 1 份转交国家经贸委；国家经贸委应当至少有 20 天的时间研究申请书及证据材料并对反倾销调查立案提出意见。

第三十五条　进出口公平贸易局在本规则第三十三条规定的期间内可以要求申请人对其反倾销调查申请进行调整或补充。申请人不调整或补充的或者未按要求的内容和时间调整或补充的，外经贸部可以驳回申请，并通知申请人。

第三十六条　外经贸部驳回申请的，不得公开调查申请。

第三十七条　外经贸部决定立案进行反倾销调查的，应当发布公告。

第三十八条　外经贸部应当在发布立案公告之前通知出口国（地区）政府。

第三十九条　立案公告应当载明下列内容：

（一）申请书概要及外经贸部对申请的审查结果；

（二）发起调查的日期；

（三）调查产品及出口国（地区）名称；

（四）调查期间；

（五）调查机关进行实地核查的意向；

（六）利害关系方不应诉将承担的后果；

（七）允许利害关系方提出意见的时限；

（八）调查机关的联系方式。

第四十条　立案决定一经公布，进出口公平贸易局应将申请书公开部分提供给已知的出口商和出口国（地区）政府。如果调查涉及大量出口商的，进出口公平贸易局只向出口国（地区）政府提供申请书公开部分。

第四十一条　反倾销调查立案决定公布之日为立案日期。

第五章　附　　则

第四十二条　外经贸部有充分证据证明存在倾销和损害，以及二者之间有因果关系的，经商国家经贸委后，可以自行决定立案，进行反倾销调查。

第四十三条　本规则由外经贸部负责解释。

第四十四条　本规则自 2002 年 3 月 13 日起实施。

反倾销调查抽样暂行规则

（2002 年 3 月 13 日对外贸易经济合作部第 15 号令发布）

第一章　总　　则

第一条　为保证反倾销调查的公平、公正、公开，根据《中华人民共和国反倾销条例》的规定，制定本规则。

第二条　对外贸易经济合作部（以下简称外经贸部）指定进出口公平贸易局负责实施本规则。

第三条　外经贸部应在全面调查的基础上为每一应诉出口商或生产商确定单独的倾销幅度。但因出口商、生产商、产品型号或交易过多，为每一出口商、生产商单独确定倾销幅度或调查全部产品型号、交易会带来过重负担并妨碍倾销调查及时完成的，外经贸部可采用抽样方法进行调查。

第四条　外经贸部基于抽样时可获得的信息，采用统计学的有效抽样方法或按照出口数量选择调查样本。

第五条　外经贸部选择的调查样本应当具有代表性。

第二章　出口商或生产商的抽样

第六条　外经贸部根据报名登记应诉情况决定选取及备选的出口商、生产商。

第七条　外经贸部初步决定选取及备选的出口商、生产商后，应及时通知各利害关系方。

利害关系方在收到通知后 7 日内，可以就出口商、生产商的选择发表评论。

第八条　外经贸部应尽量选择同意被选的出口商、生产商；出口商、

生产商不同意被选的，不妨碍外经贸部的选择。

第九条　外经贸部只向选取及备选的出口商、生产商发放调查问卷，选取及备选的出口商、生产商应当按照问卷要求及时提供完整准确的答卷。

第十条　未被选取及备选的出口商、生产商可以自愿向外经贸部提供信息。

第十一条　外经贸部应对选取的出口商、生产商确定单独的倾销幅度。

第十二条　选取的出口商、生产商不合作的，外经贸部可以用备选的出口商、生产商替代该出口商、生产商。

第十三条　未单独审查的应诉出口商、生产商的倾销幅度按选取的出口商、生产商的加权平均倾销幅度确定。

第十四条　加权平均倾销幅度的计算应排除：

（一）零倾销幅度；

（二）不足 2%的微量倾销幅度；

（三）根据《中华人民共和国反倾销条例》第二十一条做出的倾销幅度。

第十五条　外经贸部应对未被选取但及时提供了必要信息并明确要求为其确定单独倾销幅度的出口商、生产商进行单独审查，除非该单独审查会妨碍倾销调查的及时完成。

第十六条　未应诉的出口商、生产商的倾销幅度根据《中华人民共和国反倾销条例》第二十一条确定。

第三章　产品型号的抽样

第十七条　外经贸部收到应诉出口商、生产商的答卷后，如发现出口商、生产商的被调查产品涉及型号众多，外经贸部可采取抽样的方法选取部分型号的产品来确定该应诉公司被调查产品的倾销及倾销幅度。

第十八条　外经贸部初步决定选取的产品型号后，应及时通知各利害关系方。

利害关系方在收到通知后 7 日内，可以就产品型号的选取发表评论。

第十九条　外经贸部应尽量选择出口商、生产商同意的产品型号；出口商、生产商不同意的，不妨碍外经贸部的选择。

第二十条　被调查产品的倾销幅度按照被选取型号的产品的加权平均倾销幅度确定。

第四章　交易的抽样

第二十一条　外经贸部在收到应诉出口商、生产商的答卷后，如果被调查产品的国内销售或出口销售交易笔数过多，外经贸部可采取抽样的方法选取部分交易来确定该被调查产品的正常价值或出口价格。

第二十二条　外经贸部进行抽样时应当采用统计学的有效抽样方法。

第二十三条　外经贸部决定被选取的交易时应取得有关应诉出口商、生产商的同意。

第二十四条　该被调查产品的正常价值或出口价格按被选取交易的加权平均值确定。

第五章　附　　则

第二十五条　统计学的有效抽样方法包括等距抽样、随机抽样或其他适当的统计抽样方法。

第二十六条　本规则由外经贸部负责解释。

第二十七条　本规则自 2002 年 4 月 15 日起实施。

反倾销问卷调查暂行规则

(2002 年 3 月 13 日对外贸易经济合作部第 14 号令发布)

第一章　总　　则

第一条　为了保证反倾销问卷调查规范有序地进行，根据《中华人民共和国反倾销条例》的规定，制定本规则。

第二条　对外贸易经济合作部（以下简称外经贸部）指定进出口公平贸易局负责实施本规则。

第三条　本规则适用于外经贸部为确定倾销及倾销幅度而通过调查问卷方式进行的反倾销调查。

第四条　本规则所称的调查问卷是指在反倾销调查中，外经贸部向报名应诉的被调查国家（地区）的生产商或出口商（以下简称应诉公司）发放的书面问题单。

第五条　应诉公司应按照外经贸部的要求，完整而准确地回答调查问卷中所列问题，提交调查问卷中所要求的信息和材料。

第二章　问卷发放

第六条　被调查国家（地区）的生产商或出口商应自反倾销立案之日起 20 天内，按照立案公告的要求，向外经贸部报名应诉。

第七条　报名应诉的生产商或出口商向外经贸部报名应诉时，应以印刷体简体中文形式提交以下信息：

（一）报名应诉的意思表示；

（二）应诉公司的名称、地址、法定代表人、联系方式和联系人；

（三）调查期内向中华人民共和国出口被调查产品的总数量、总金额。

报名应诉文件应有应诉公司的盖章和（或）其法定代表人的签字。

应诉公司委托中华人民共和国的执业律师代理呈送的，应列出代理律师的姓名、联系方式、所在的律师事务所及其地址，并附授权委托书原件。

第八条　调查问卷应在报名应诉截止之日起 10 个工作日内向应诉公司发放。

第九条　如应诉公司数量过多，外经贸部决定采取抽样的方式进行反倾销调查的，调查问卷可以只发放给经抽样选中的应诉公司。

涉及抽样调查的，外经贸部可对发放问卷的期限进行适当延长。

第三章　答卷要求

第十条　应诉公司应在规定时间内提交完整而准确的答卷。答卷应当包括调查问卷所要求的全部信息。

第十一条　应诉公司在回答问卷时对调查问卷有疑问的，可以书面形式向调查问卷所列明的案件调查人员咨询。

第十二条　应诉公司在回答调查问卷所列的问题时，应首先列出问题题目，并在题目下直接回答。

第十三条　答卷应以印刷体简体中文形式填制，并按要求提供相关证据材料。证据材料原件是外文的，应按照外文原文的格式提供中文翻译件，并附外文原文或复印件。

第十四条　应诉公司应指明答卷中所使用的证据材料的来源和出处。所有与答卷有关的销售单证、会计记录、财务报告和其他文件除按要求附在公司的答卷中之外，均应留备核查。

第十五条　答卷要求提供的交易证据材料应按照交易发生的时间顺序进行整理；每一笔交易的证据材料应按照交易流程进行整理，并提供该笔交易的证据材料清单。

第十六条　应诉公司按照问卷要求应将调查问卷复印转交给关联贸易公司或者其他公司填制时的，该关联贸易公司或者其他公司应按照问卷要求独立提交答卷。

第四章　答卷提交

第十七条　调查问卷的答卷应当在问卷发放之日起 37 日内送达外经贸部。

第十八条　应诉公司有正当理由表明在答卷到期日前不能完成答卷的，应在问卷提交截止期限 7 日前向外经贸部提出延期提交答卷书面申请，陈述延期请求和延期理由。

外经贸部应在问卷提交截至期限 4 日前，根据申请延期的应诉公司的具体情况对申请延期请求作出书面答复。

通常情况下延期不超过 14 日。

第十九条　应诉公司认为答卷中有需要保密内容的，应提出保密处理的申请，并陈述需要保密的理由。

对要求保密处理的信息，应提供一份非保密概要。非保密概要应当包含充分的有意义的信息，以使其他利害关系方对保密信息能有合理的理解。如不能提供非保密概要，应说明理由。

第二十条　外经贸部应对保密申请进行审查。如认定保密理由不充分，或非保密概要不能满足第十九条第二款的要求，或应诉公司不能提供非保密概要的理由不充分，可要求应诉公司在规定期限内进行修改。

应诉公司拒绝修改或者修改后的非保密概要仍然不符合要求的，外经贸部可对该材料不予考虑。

第二十一条　答卷应做成两种类型。一类为含有保密信息的完整答卷；一类为只包括公开信息的答卷。应诉公司应当在每份答卷首页注明保密答卷或公开答卷。公开答卷中涉及保密部分的，应用"〖〗"符号标注，并注

明相应的非保密概要的序号。

第二十二条　应诉公司应提交公开答卷和保密答卷中文原件各一份、中文复印件各四份。

所有答卷均须妥善装订成册。答卷正文和所附证据材料均应按顺序标注页码。答卷应包含答卷目录和附件目录，每一份附件都应列明序号。

第二十三条　应诉公司应按照答卷的要求提供一份证明信，声明应诉公司提供的信息是准确和完整的，并由应诉公司法定代表人或其授权人签署。

外经贸部对没有附具证明信的答卷不予接受。

第二十四条　应诉公司提供的书面答卷和数据表格，应按照问卷要求提交计算机软盘、光盘或外经贸部可接受的其他电子数据载体。

电子数据载体的内容应当与答卷中的格式完全一致，表格中数据涉及到计算的部分应保留计算公式。

第二十五条　应诉公司应保证提交的电子数据载体不携带病毒。如果携带病毒可被视为阻碍调查，外经贸部可依据可获得的事实和现有最佳材料做出裁定。

第二十六条　通常情况下，不提供电子数据载体，特别是不提供交易和财务数据的电子数据载体的应诉公司将被视为不合作。

如应诉公司无法提供电子数据载体或者无法按照本规则要求提供电子数据载体，或者按照本规则要求提供电子数据载体将给应诉公司造成不合理的额外负担,应诉公司可以在问卷发放之日起 15 日内向外经贸部提交书面申请，说明无法按要求提供电子数据载体的理由。外经贸部在接到申请后 5 日内对是否同意申请作出书面答复。

第二十七条　应诉公司的答卷应通过中华人民共和国执业律师代理呈送并由代理律师处理相关事宜。在答卷中应提供一份有效的律师授权委托

书及该代理律师有效的执业证书复印件。

第二十八条　调查问卷的答卷应在答卷截止当日 17:00 之前寄至或直接送至问卷所列的地址。

送达日为外经贸部收到答卷的日期。

第五章　附　　则

第二十九条　在反倾销调查中，外经贸部可向应诉公司发放补充调查问卷，要求提供补充信息和材料。

补充调查问卷的发放、回答以及提交等事宜参照本规则适用。

第三十条　外经贸部可向进口商发放调查问卷。进口商调查问卷的发放、回答以及提交等事宜参照本规则适用。

第三十一条　应诉公司在规定的期限内不提交答卷，或者不能按照本规则的要求提供完整而准确的答卷，或者对其所提供的资料不允许外经贸部进行核查，或者以其他方式严重妨碍调查，则外经贸部可依据可获得的事实和现有最佳材料做出初步裁定或者最终裁定。

第三十二条　本规则由外经贸部负责解释。

第三十三条　本规则自 2002 年 4 月 15 日实施。

反倾销调查信息披露暂行规则

(2002 年 3 月 13 日对外贸易经济合作部第 18 号令发布)

第一条　为保证反倾销调查的公平、公正、公开，根据《中华人民共和国反倾销条例》的规定，制定本规则。

第二条　对外贸易经济合作部（以下简称外经贸部）指定进出口公平贸易局负责实施本规则。

第三条　本规则所称披露，是指外经贸部向在反倾销调查过程中提供信息的利害关系方告知在裁定该利害关系方的倾销及倾销幅度时所采用的基本数据、信息、证据及理由的程序。

第四条　披露包括初裁决定公布后的披露、实地核查结果的披露和终裁决定作出前的披露。

第五条　初裁决定公布后披露和终裁决定作出前披露的内容包括：

（一）正常价值方面：对正常价值的认定、计算正常价值所采用的交易数据及调整数据、计算正常价值时未采用的数据及其理由等；

（二）出口价格方面：对出口价格的认定、计算出口价格所采用的交易数据及调整数据、计算出口价格时未采用的数据及其理由等；

（三）成本方面：认定生产成本采用的数据、各项费用的分摊方法及采用的数据、利润的估计、非正常项目的认定等；

（四）现有最佳信息的使用及理由，但涉及其他利害关系方保密信息的除外；

（五）倾销幅度的计算方法；

（六）外经贸部认为需要披露的其他信息。

第六条　披露应采用书面形式。

第七条　外经贸部应自反倾销调查初裁决定公告发布之日起 20 天内向有关利害关系方披露。

第八条　外经贸部在向有关利害关系方进行披露后，应给予该利害关系方不少于 10 天的时间，对初裁决定及披露的相关事项予以评论。

该评论应以书面方式在规定时间内提交外经贸部。

第九条　外经贸部应在实地核查结束后的合理期限内向被核查出口商、生产商披露有关核查结果，包括：

（一）被核查出口商、生产商是否合作；

（二）被核查出口商、生产商提供数据、信息和材料的真实性、准确性和完整性情况；

（三）被核查出口商、生产商是否存在欺骗、隐瞒的行为；

（四）在被核查出口商、生产商所在国家（地区）进一步搜集信息的情况；

（五）外经贸部认为需要披露的其他相关信息。

第十条　外经贸部在终裁决定作出前进行披露时应给予被披露的有关利害关系方不少于 10 天的时间，对披露的有关事项进行评论。

该评论应以书面方式在规定的时间内提交外经贸部。

第十一条　涉及复审方面的信息披露按照本规则执行。

第十二条　本规则由外经贸部负责解释。

第十三条　本规则自 2002 年 4 月 15 日起实施。

反倾销调查公开信息查阅暂行规则

（2002 年 3 月 13 日对外贸易经济合作部第 19 号令发布）

第一条　为保证反倾销调查的公平、公正、公开，根据《中华人民共和国反倾销条例》的规定，制定本规则。

第二条　对外贸易经济合作部（以下简称外经贸部）指定进出口公平贸易局负责实施本规则。

第三条　本规则所指公开信息查阅，是指与反倾销案件有关的利害关系方到外经贸部指定的地点查找、阅览、抄录并复印其他利害关系方就该案件所提交的非保密的信息和材料。

第四条　外经贸部允许各利害关系方查阅与案件调查有关的全部公开信息。

第五条　本规则第四条所指可查阅公开信息的内容包括：

（一）申请人提交的反倾销调查申请书的非保密文本；

（二)应诉国外出口商和生产商提交的答卷及补充答卷的非保密文本；

（三）利害关系方向外经贸部提供的其他非保密信息；

（四）有关利害关系方向外经贸部提出的请求，包括但不限于延期递交答卷、追加被调查国家（地区）、追溯征税、提出价格承诺、召开听证会、复审等申请；

（五）其他利害关系方对上款的申请提出的意见及评论中涉及的非保密信息；

（六）外经贸部对本条第（四）款中所提申请的答复；

（七）外经贸部会见有关利害关系方的概要；

（八）外经贸部发布的公告、通知；

（九）外经贸部进行实地核查的概要；

（十）外经贸部认为利害关系方可查阅的其他非保密信息。

第六条　利害关系方在向外经贸部提供相关信息时，应注明为公开信息还是保密信息。

利害关系方提供的信息为保密信息的，可向外经贸部提出对该部分信息进行保密处理的请求，并应提供一份该保密信息的非保密概要，该非保密概要应包含在公开文本中。

未注明保密信息的，外经贸部可视其为公开信息，允许其他利害关系方查阅。

第七条　在整个案件调查过程中，各利害关系方可以在外经贸部的工作时间内到外经贸部查阅公开信息。

第八条　利害关系方在查阅公开信息前，应事前与外经贸部有关工作人员取得联系，并说明所查阅信息的内容和范围。

第九条　利害关系方在查阅公开信息时，应向外经贸部有关工作人员出示能够证明其身份的证件或文件，并进行登记。

第十条　利害关系方可以抄录、复印所查阅的公开信息，但不得将材料借出。

第十一条　本规则由外经贸部负责解释。

第十二条　本规则自 2002 年 4 月 15 日起实施。

反倾销调查听证会暂行规则

（2002 年 1 月 16 日对外贸易经济合作部第 3 号令发布）

第一条　为保障反倾销调查的公平、公正，维护利害关系方的合法权益，根据《中华人民共和国反倾销条例》的有关规定，制定本规则。

第二条　本规则适用于对外贸易经济合作部在反倾销调查程序中举行的倾销裁定听证会。

第三条　对外贸易经济合作部进出口公平贸易局（以下简称“进出口公平贸易局”）具体组织倾销裁定听证会。

第四条　倾销裁定听证会应公开举行；但涉及国家秘密、商业秘密或个人隐私的，经利害关系方申请，进出口公平贸易局决定后可以采取其他方式举行。

第五条　进出口公平贸易局应利害关系方的申请举行听证会；进出口公平贸易局如认为必要时，可以自行举行听证会。

第六条　进出口公平贸易局自行举行听证会的，应当事先通知利害关系方，并适用本规则的相关规定。

第七条　本规则所指利害关系方为反倾销调查的申请人、已知的出口经营者和进口经营者、出口国（地区）政府以及其他有利害关系的组织、个人。

第八条　利害关系方要求举行听证会的，应当向进出口公平贸易局提出要求举行听证会的书面申请。

申请书应当包括下列内容：

（一）听证会申请人的名称、地址和有关情况；

（二）申请的事项；

（三）申请的理由。

第九条　进出口公平贸易局应当在收到利害关系方的听证会申请后15天内决定举行听 证会，并通知包括听证会申请人在内的各利害关系方。

第十条　进出口公平贸易局决定举行听证会的通知应包括如下内容：

（一）决定举行听证会；

（二）决定举行听证会的理由；

（三）各利害关系方在听证会前的登记的时间、地点及相关要求；

（四）其他事项。

第十一条　各利害关系方在收到决定举行听证会的通知后，根据通知的内容向进出口公平贸易局登记。

第十二条　进出口公平贸易局应当在决定举行听证会的通知所确定的登记截止之日起20天内对听证会举行的时间、地点、听证主持人、听证会会议议程等做出决定，并通知已登记的利害关系方。

第十三条　听证会主持人在听证会中行使下列职权：

（一）主持听证会会议的进行；

（二）确认参加听证会人员的身份；

（三）维护听证会秩序；

（四）向各利害关系方发问；

（五）决定是否允许各利害关系方补充提交证据；

（六）决定中止或者终止听证会；

（七）需要在听证会中决定的其他事项。

第十四条　参加听证会的利害关系方可以由其法定代表人或主要负责人参加听证会，或者委托1至2名代理人参加听证会。

第十五条　参加听证会的利害关系方应当承担下列义务：

（一）按时到达指定地点出席听证会；

（二）遵守听证会纪律，服从听证会主持人安排。

第十六条　听证会应当遵照下列程序进行：

（一）听证主持人宣布听证会开始，宣读听证会纪律；

（二）核对听证会参加人；

（三）利害关系方陈述；

（四）听证主持人询问利害关系方；

（五）利害关系方作最后陈述；

（六）主持人宣布听证会结束。

第十七条　听证会旨在为各利害关系方提供充分陈述意见的机会，不设辩论程序。

第十八条　听证会应当制作笔录，听证会主持人、笔录记录人、参加听证会的各利害关系方应当当场签名或者盖章；利害关系方拒绝签名或者盖章的，听证主持人应当在听证笔录上载明有关情况。

第十九条　有下列情形之一的，经进出口公平贸易局决定，可以延期或取消举行听证会：

（一）听证会申请人因不可抗力的事件或行为，且已提交延期或取消举行听证会的书面申请的；

（二）反倾销调查终止；

（三）其他应当延期或取消的事项。

第二十条　听证会延期举行的原因消除后，进出口公平贸易局应当恢复听证会，并通知已登记的利害关系方。

第二十一条　本规则所指通知形式为对外贸易经济合作部公告；特殊情况下进出口公平贸易局可以采取其他形式。

第二十二条　听证会使用的工作语言为中文。

第二十三条　对外贸易经济合作部负责本规则的解释。

第二十四条　本规则自公布之日起施行。

反倾销调查实地核查暂行规则

（2002 年 3 月 13 日对外贸易经济合作部第 13 号令发布）

第一条　为规范反倾销调查实地核查程序，根据《中华人民共和国反倾销条例》的规定，制定本规则。

第二条　对外贸易经济合作部（以下简称外经贸部）指定进出口公平贸易局负责实施本规则。

第三条　本规则所指实地核查，是指外经贸部在反倾销调查过程中派出工作人员赴有关出口国（地区），核实有关出口商、生产商所提交信息和材料的真实性、准确性和完整性及进一步搜集反倾销调查所需信息和材料的程序。

第四条　外经贸部只对反倾销调查中充分合作的有关出口国（地区）的出口商、生产商进行实地核查。

第五条　实地核查主要核查出口商、生产商所提交的信息和材料，包括：

（一）出口商、生产商所提交答卷中涉及的所有信息和材料；

（二）出口商、生产商应外经贸部要求所提供的补充答卷中涉及的信息和材料；

（三）出口商、生产商主动向外经贸部提交的有关信息和材料；

（四）外经贸部认为需要核实的其他信息和材料。

第六条　外经贸部可根据案件的不同情况，作出是否进行实地核查的决定。

第七条　外经贸部通常在作出初步裁定后进行实地核查，也可根据案件具体情况在作出初步裁定前进行实地核查。

第八条 外经贸部决定进行实地核查的，应提前通知将被核查的出口商、生产商及其所在国（地区）政府。

第九条 外经贸部在进行实地核查前，应取得被核查出口商、生产商的明确同意。

第十条 实地核查获得被核查出口商、生产商同意的，外经贸部应将被核查出口商、生产商的名称、地址以及商定的核查日期等信息通知出口商、生产商所在国（地区）政府。

出口商、生产商所在国（地区）政府表示异议的，外经贸部不得进行实地核查。

第十一条 在实地核查前，外经贸部应将具体行程预先通知被核查出口商、生产商。

第十二条 核查小组由外经贸部负责组织，通常由负责反倾销调查的政府人员组成。

在特殊情况下，外经贸部可以邀请非政府专家参与核查，但应事前通知被核查的出口商、生产商及其所在国（地区）政府。该非政府专家应严格遵守保密义务。

第十三条 核查小组应在进行实地核查前将需要核实信息的一般性质和需要进一步搜集的信息通知被核查出口商、生产商。

核查小组可以根据需要在实地核查前向被核查出口商、生产商发放具体的核查问题单。

第十四条 被核查出口商、生产商应整理好支持其答卷和补充答卷中所提供信息的所有证据和材料，以备核查。

如前款提及的证据和材料的原始记录通过某种计算机程序以电子数据形式存在，被核查出口商、生产商应保证上述计算机程序能够正常运转，并且该电子数据可复制、打印。

第十五条　被核查出口商、生产商应在核查过程中积极配合核查小组的工作，并应配备最初准备答卷的负责人员和其他相关主管人员，随时解释核查小组提出的问题。

第十六条　核查的工作语言为中文或核查小组同意使用的其他语言。

第十七条　核查小组可以视案件的复杂程度，采取全面核查或抽样核查的方法。

第十八条　实地核查可以按照事前通知的范围进行，但该范围不妨碍核查小组根据所获得的信息和材料当场要求提供进一步的信息和材料。

第十九条　核查结束后，外经贸部应在合理期间内向被核查出口商、生产商披露核查结果。外经贸部可以应其他利害关系方的请求披露该核查的概要情况，但不得披露被核查出口商、生产商的保密信息。

第二十条　经过核实的答卷和补充答卷中所提供的信息和材料以及核查中进一步搜集的信息和材料将作为外经贸部裁定倾销和倾销幅度的依据。

第二十一条　有下列情况之一的，外经贸部可以决定采用已经获得的事实和可获得的最佳信息确定倾销和倾销幅度：

（一）出口商、生产商拒绝实地核查的；

（二）被核查出口商、生产商所在国（地区）政府对实地核查提出异议的；

（三）对核查小组提出的合理要求，被核查出口商、生产商不积极合作的；

（四）被核查出口商、生产商拖延核查，致使核查未能如期完成的；

（五）核查中发现被核查出口商、生产商所提供的信息和材料在真实性、准确性和完整性方面存在重大问题的；

（六）被核查出口商、生产商存在明显欺骗、隐瞒行为的；

（七）有其他阻碍实地核查行为的。

第二十二条 反倾销调查涉及推定出口价格的，或外经贸部认为需要的，外经贸部可对有关被调查产品的国内进口商进行实地核查，具体核查办法参照本规则进行。

第二十三条 应有关出口商、生产商的请求，且该出口商、生产商所在国（地区）政府未提出异议的，外经贸部可派出工作人员赴该出口国（地区）解释反倾销调查问卷。

第二十四条 本规则由外经贸部负责解释。

第二十五条 本规则自 2002 年 4 月 15 日起实施。

反倾销价格承诺暂行规则

（2002 年 3 月 13 日对外贸易经济合作部第 20 号令发布）

第一章　总　　则

第一条　为保证反倾销措施合理、有效的实施，根据《中华人民共和国反倾销条例》的规定，制定本规则。

第二条　对外贸易经济合作部（以下简称外经贸部）指定进出口公平贸易局负责实施本规则。

第三条　本规则所指价格承诺，是指应诉出口商、生产商向外经贸部自愿作出的，改变价格或者停止以倾销价格出口被调查产品并经外经贸部接受而中止或终止调查的承诺。

第二章　价格承诺的提出

第四条　应诉出口商、生产商可向外经贸部提出价格承诺；外经贸部也可向应诉出口商、生产商提出价格承诺的建议。

第五条　外经贸部不得强迫有关出口商、生产商作出价格承诺。出口商、生产商不作出价格承诺或者不接受价格承诺建议，不得对其倾销及倾销幅度的确定产生不利影响。

第六条　价格承诺的提出不得晚于初步裁决公告后 45 天。

第七条　在对倾销和损害作出肯定的初步裁决前，外经贸部不得向出口商、生产商提出价格承诺的建议或者接受其提出的价格承诺。

第八条　有关出口商、生产商提出的价格承诺包含保密信息的，可以向外经贸部提出保密申请，并提供该保密信息的非保密概要。

第九条　外经贸部收到有关出口商、生产商提出的价格承诺后应当通

知其他利害关系方，并提供非保密文本供其评论。评论应当在通知中规定的期限内以书面方式提出。

第三章　价格承诺的接受或拒绝

第十条　外经贸部在考虑是否接受价格承诺时，应当审查下列因素：

（一）是否可以消除倾销所造成的损害；

（二）是否具备行之有效的措施予以监控；

（三）是否符合中华人民共和国的公共利益；

（四）是否存在规避的可能性；

（五）外经贸部认为需要审查的其他因素。

第十一条　外经贸部只接受在调查期间充分合作的出口商、生产商提出的价格承诺。

第十二条　外经贸部认为出口商、生产商作出的价格承诺可以接受的，经商国家经贸委后，可以决定中止或者终止对提出价格承诺的出口商、生产商的反倾销调查。

中止或者终止反倾销调查的决定由外经贸部予以公告。

第十三条　外经贸部认为不宜接受价格承诺的，应当将拒绝承诺的理由通知该出口商、生产商，并给予其对此充分发表意见的机会。

拒绝价格承诺的决定和理由应当在终裁决定中写明。

第四章　价格承诺的内容、有效期及监督执行

第十四条　价格承诺应当包括但不限于以下内容：

（一）产品范围；

（二）参考价格，包括价格的确定，提价方式，提价幅度，分阶段调

整等；

（三）报告义务

（四）接受实地核查的明确表示；

（五）不规避价格承诺的保证；

（六）外经贸部认为应包含的其他内容。

第十五条　承诺的提价幅度应当与初步裁决确定的倾销幅度相当；如果提价幅度低于倾销幅度，但足以消除国内产业损害，则提价幅度可低于倾销幅度。

第十六条　价格承诺自中止或者终止反倾销调查决定公告之日起开始生效，有效期为五年。

如外经贸部仅接受了部分出口商、生产商提出的价格承诺，则上款规定的有效期应当自对其他出口商、生产商的反倾销调查结束之日起计算。

第十七条　外经贸部可以通过下列方式对价格承诺的履行进行监督：

（一）要求作出价格承诺的出口商、生产商定期提供履行承诺的有关情况，包括出口的实际数量和价格、进口商名称；

（二）定期向海关核实作出承诺的出口商、生产商向中华人民共和国出口被调查产品的数据；

（三）对作出承诺的出口商、生产商进行定期或不定期的实地核查；

（四）向做出承诺的出口商、生产商的国内进口商了解、核实有关情况；

（五）外经贸部认为适宜的其他方式。

第十八条　依照《中华人民共和国反倾销条例》第三十三条第一款规定中止或者终止反倾销调查后，应有关出口商、生产商的请求或者调查机关认为有必要，调查机关可以对倾销和损害继续进行调查。

第十九条　根据本规则第十八条继续调查的，如果根据调查结果作出倾销和损害的肯定裁决，价格承诺继续有效。

第二十条　根据本规则第十八条继续调查的，如果根据调查结果作出倾销的否定裁决的，相关出口商、生产商的价格承诺自动失效。

如果根据调查结果作出损害的否定裁决的，依据《中华人民共和国反倾销条例》第二十七条第（二）款的规定，反倾销调查应当终止，出口商、生产商的价格承诺也应当自动失效。

第二十一条　根据本规则第十八条继续调查的，如果因为存在价格承诺，调查机关才没有作出存在倾销或损害的肯定裁定的，外经贸部可以决定在一个合理的期限内维持该价格承诺。

第五章　价格承诺的撤销、撤回及违反

第二十二条　外经贸部如认为继续执行价格承诺不再符合中华人民共和国公共利益，可以撤销接受该价格承诺的决定。

第二十三条　外经贸部应当在撤销生效前的合理时间内将此意向通知作出价格承诺的出口商、生产商，并给予该出口商、生产商充分的机会就此进行评论。

第二十四条　作出价格承诺的出口商、生产商可以在价格承诺有效期内的任何时候撤回承诺，但应当提前三十天向外经贸部提出。

第二十五条　外经贸部决定撤销接受价格承诺决定的，或作出承诺的国外出口商、生产商撤回价格承诺的，外经贸部应当通知海关自撤销或撤回生效之日起按原初步裁决实施临时反倾销措施，并立即恢复反倾销调查；

如果原反倾销调查已经完成并最终为该出口商、生产商确定了倾销幅度，应当自撤销或撤回生效之日起开始征收反倾销税。

第二十六条　有下列情况之一的，为违反价格承诺：

（一）以低于承诺的价格出口的；

（二）未按承诺定期提供履行承诺有关情况的；

（三）拒绝外经贸部对其所提供的数据和其他信息进行核查的；

（四）提供的数据和其他信息存在严重不实的；

（五）存在明显的规避行为的；

（六）有其他违反价格承诺行为的。

第二十七条　出口商、生产商违反价格承诺的，外经贸部应当立即恢复反倾销调查，并根据可获得的最佳信息，立即采取临时反倾销措施。

如果最终裁定确定存在倾销，应当根据《中华人民共和国反倾销条例》第三十八条的规定征收反倾销税，并可以对临时反倾销措施实施前 90 天内进口的被调查产品追溯征收反倾销税，但违反价格承诺前进口的产品除外。

终裁确定的反倾销税高于临时反倾销税或高于所交纳的保证金金额的，差额部分应当补征；终裁确定的反倾销税低于临时反倾销税或低于所交纳的保证金金额的，差额部分应当予以退还。

第二十八条　出口商、生产商违反价格承诺的，如原反倾销调查已经完成，并为违反价格承诺的国外出口商、生产商确定了倾销幅度，应当立即按《中华人民共和国反倾销条例》第三十八条的规定征收反倾销税，并可以对征收反倾销税前 90 天内进口的被调查产品追溯征收反倾销税，但违反价格承诺前进口的产品除外。

第六章　附　　则

第二十九条　价格承诺可以与有关出口国（地区）政府达成。

第三十条　价格承诺应当在生效后 7 天内通知世贸组织反倾销措施委员会。

第三十一条　本规则由外经贸部负责解释。

第三十二条　本规则自 2002 年 4 月 15 日起实施。

倾销及倾销幅度期中复审暂行规则

（2002 年 3 月 13 日对外贸易经济合作部第 23 号令公布）

第一条　为保证反倾销期中复审的公平、公正、公开，根据《中华人民共和国反倾销条例》的规定，制定本规则。

第二条　对外贸易经济合作部（以下简称外经贸部）指定进出口公平贸易局负责实施本规则。

第三条　本规则适用于在反倾销措施有效期间内，根据反倾销措施生效后变化了的正常价值、出口价格对继续按照原来的形式和水平实施反倾销措施的必要性进行的复审（以下简称期中复审）。

第四条　外经贸部可以应申请立案，进行期中复审。

外经贸部没有收到期中复审申请，但有正当理由的，经商国家经贸委，可以自行立案，进行期中复审。

第五条　国内产业或代表国内产业的自然人、法人或有关组织（以下简称国内产业）、涉案国（地区）的出口商、生产商、国内进口商均可向外经贸部提出期中复审申请。

第六条　期中复审申请应在反倾销措施生效后每届满一年之日起 30 天内提出。

对复审裁决申请期中复审的，应在复审裁决生效后届满一年之日起 30 天内提出。

第七条　出口商、生产商申请期中复审的，应在申请前 12 个月内对中国出口过反倾销措施所适用的产品（以下称被调查产品）。

前款所述出口应达到一定的数量，足以构成确定正常出口价格的基础。该数量按被调查产品的正常商业交易量予以确定。

第八条　原反倾销措施为征收反倾销税的，未征收反倾销税的出口不得作为提出期中复审申请的依据。

第九条　出口商、生产商的期中复审申请应以书面形式提出，并由申请人的法定代表人或其授权人正式签署。

出口商、生产商的期中复审申请应附下列证据和材料

（一）申请人的名称、地址和其他有关情况；

（二）申请前 12 个月内申请人的国内销售情况的数据；

（三）申请前 12 个月内申请人对中国出口情况的数据；

（四）为计算倾销幅度而必须作出的各种调整及倾销幅度的初步计算结果；

（五）申请人认为需要说明的其他内容。

上款（一）至（四）项的材料应按原反倾销调查问卷所要求的内容及形式提交。

第十条　出口商、生产商的期中复审申请应分为保密文本（如申请人提出保密申请）和公开文本。保密文本和公开文本均应提交正本 1 份，副本 6 份。

第十一条　外经贸部自收到出口商、生产商的复审申请之日起 7 个工作日内通知原申请人，原申请人可在收到通知之日起 21 日内对应否立案进行复审发表意见。

第十二条　国内产业提出期中复审申请的，所提交的有关倾销和申请人产业代表性的证据和材料应符合《中华人民共和国反倾销条例》第 14 条、第 15 条和第 17 条的规定。

第十三条　国内产业提出的期中复审申请可针对原反倾销调查涉及的所有或部分国家（地区）的全部出口商、生产商，也可明确将复审范围限于指明的部分出口商、生产商。

第十四条　国内产业的期中复审申请应符合本规则第 10 条的规定。

第十五条　外经贸部应在收到国内产业的期中复审申请后 7 个工作日内将复审申请公开文本及保密资料的非保密性概要递交有关国家（地区）驻中国的代表机构。

第十六条　出口商、生产商可在外经贸部将国内产业的复审申请的公开文本及保密资料的非保密性概要递交有关国家（地区）驻中国的代表机构起 21 日内对应否立案进行复审发表意见。

第十七条　进口商提出的期中复审申请，应符合本规则第 9 条、第 10 条关于出口商、生产商提出期中复审申请的有关规定。

第十八条　如果进口商与出口商、生产商无关联关系，无法立即得到本规则第 9 条规定的有关正常价值和出口价格的证据和材料，或出口商、生产商不愿向进口商提供上述证据和材料，则进口商应提供出口商、生产商的声明。该声明应明确表示倾销幅度已经降低或消除，且有关证据和材料将按照规定的内容和形式在进口商提出复审申请之日起 30 日内直接提交给外经贸部。

第十九条　出口商、生产商根据本规则第 18 条提供的证据和材料应符合本规则第 10 条的规定。

第二十条　外经贸部应在收到进口商的期中复审申请之日起 7 个工作日内通知原申请人；原申请人可在收到通知之日起 21 日内对应否立案进行复审发表意见。

第二十一条　外经贸部在收到期中复审申请后，应在 7 个工作日内将申请书及所附有关证据和材料的保密文本和公开文本各一份转交国家经贸委。

国家经贸委至少应有 20 天时间研究申请及有关证据和材料，并发表意见。

第二十二条　外经贸部通常应在收到期中复审申请后 60 日内作出立

案或不立案的决定。

第二十三条　如外经贸部经审查发现期中复审申请及所附证据和材料不符合本规则要求的，可要求申请人在规定期限内补充和修改。如申请人未在规定期限内补充和修改，或补充和修改后仍不符合本规则要求的，外经贸部可驳回申请，以书面形式通知申请人并说明理由。

第二十四条　如外经贸部决定立案进行期中复审的，应发布公告。期中复审的立案公告应包括以下内容：

（一）被调查产品的描述；

（二）被调查的出口商、生产商的名称及其所属国（地区）名称；

（三）立案日期；

（四）复审调查期；

（五）申请书中主张倾销幅度有所提高或降低或倾销已被消除的依据概述；

（六）利害关系方表明意见和提交相关材料的时限；。

（七）调查机关进行实地核查的意向；

（八）利害关系方不合作将承担的后果；

（九） 调查机关的联系方式。

第二十五条　出口商、生产商提出期中复审申请的，期中复审仅限于对申请人被调查产品的正常价值、出口价格和倾销幅度进行调查。

第二十六条　国内产业提出期中复审申请的，期中复审应对所申请的涉案国（地区）的所有出口商、生产商被调查产品的正常价值、出口价格和倾销幅度进行调查。对于原反倾销调查确定其倾销幅度为零或可以忽略不计的出口商、生产商，仍应进行复审调查。

如国内产业只申请对原反倾销调查涉案国（地区）的个别出口商、生

产商进行期中复审的，外经贸部可只对指明的出口商、生产商被调查产品的正常价值、出口价格和倾销幅度进行调查。

第二十七条　进口商提出期中复审申请的，期中复审仅限于对声明将向外经贸部提交有关证据和材料的出口商、生产商被调查产品的正常价值、出口价格和倾销幅度进行调查。

第二十八条　期中复审的调查期为复审申请提交前的 12 个月。

第二十九条　如出口商、生产商、产品型号或交易过多，为每一出口商或生产商单独确定倾销幅度或调查全部型号或交易会带来过分负担并妨碍倾销调查的及时完成的，外经贸部可根据《反倾销抽样调查暂行规则》的规定，采用抽样的办法进行调查。

第三十条　期中复审调查中正常价值和出口价格的确定、调整和比较及倾销幅度的计算按照《中华人民共和国反倾销条例》第 4 条、第 5 条和第 6 条的有关规定进行。

第三十一条　期中复审调查中，出口价格根据该进口产品首次转售给独立购买人的价格推定的，如果出口商、生产商提供充分的证据证明，反倾销税已适当地反映在进口产品首次转售给独立购买人的价格中和此后在中国的售价中，则外经贸部在计算推定的出口价格时，不应扣除已缴纳的反倾销税税额。

第三十二条　外经贸部可根据《反倾销调查实地核查暂行规则》，对出口商、生产商的有关信息和材料的准确性和完整性进行实地核查。

第三十三条　期中复审无须作出初步裁决，但外经贸部应在得出初步调查结果后，按《中华人民共和国反倾销条例》第 25 条第二款及《反倾销调查信息披露暂行规则》，将初步调查结果及所依据的事实和理由进行披露，并应给予利害关系方不少于 10 日的时间提出评论和提交补充资料。

第三十四条　期中复审的初步调查结果及所依据的事实和理由一经披露后，复审申请人不得撤回申请。

第三十五条　出口商可在期中复审的初步调查结果及所依据的事实和理由披露后的 15 日内提出价格承诺。

如外经贸部经商国家经贸委决定接受价格承诺，应按照《中华人民共和国反倾销条例》第 33 条的有关规定，向国务院关税税则委员会提出建议，国务院关税税则委员会根据外经贸部的建议作出决定，由外经贸部予以公告。

第三十六条　期中复审应在复审立案之日起 12 个月内结束。

第三十七条　外经贸部应于复审期限届满前 15 日之前向国务院关税税则委员会提出保留、修改或者取消反倾销税的建议，外经贸部在复审期限届满前根据国务院关税税则委员会的决定发布公告。

第三十八条　期中复审期间，原反倾销措施继续有效。复审裁决自复审裁决公告之日起执行，不具有追溯效力。

第三十九条　在反倾销措施届满前一年内，应出口商、生产商、国内进口商申请而进行的期中复审，在反倾销措施届满时仍未完成，且国内产业并未提出期终复审申请，外经贸部也未决定自行立案进行期终复审的，外经贸部应发布公告终止期中复审，并终止反倾销措施的实施。

第四十条　在反倾销措施届满前一年内，应国内产业申请而进行的期中复审，在反倾销措施届满时仍未完成的，外经贸部可视为国内产业已经提出期终复审申请，并发布公告，开始进行期终复审。外经贸部可将期中复审与期终复审合并进行，并同时作出裁决。

第四十一条　本规则由外经贸部负责解释。

第四十二条　本规则自 2002 年 4 月 15 日起施行。

反倾销新出口商复审暂行规则

（2002 年 3 月 13 日对外贸易经济合作部第 21 号令发布）

第一条　为保证新出口商复审的公平、公正、公开，根据《中华人民共和国反倾销条例》的规定，制定本规则。

第二条　对外贸易经济合作部（以下简称外经贸部）指定进出口公平贸易局负责实施本规则。

第三条　本规则适用于原反倾销调查期内未向中华人民共和国出口过被调查产品的涉案国（地区）出口商、生产商（以下称新出口商），在原反倾销措施生效后要求为其确定单独反倾销税率的复审。

第四条　新出口商复审申请人不得与在原反倾销调查期内向中华人民共和国出口过被调查产品的出口商、生产商具有关联关系。

如果新出口商复审申请人为贸易商，除应符合前款规定外，其供应商也不得是在原反倾销调查期内向中华人民共和国出口过被调查产品的出口商、生产商或与上述出口商、生产商具有关联关系。

第五条　新出口商复审申请人必须在原反倾销调查期后曾向中华人民共和国实际出口过被调查产品。

前款所述出口应达到一定的数量，足以构成确定正常出口价格的基础。该数量按被调查产品的正常商业交易量予以确定。

第六条　如原反倾销措施为征收反倾销税，未征收反倾销税的出口不得作为提出新出口商复审的依据。

第七条　新出口商复审申请人在原反倾销调查最终裁决生效后方可提出申请，且申请时间不得晚于实际出口后 3 个月。

就原反倾销调查期后最终裁决前的实际出口提出的申请不受前款规定

限制，但仍须在原反倾销调查作出最终裁决后 3 个月内提出。

实际出口日期按发票日期确定。

第八条　新出口商复审申请应该以书面形式提出，并由申请人的法定代表人或其授权人正式签署。

第九条　新出口商复审申请应附下列证据和材料：

（一）申请人的名称、地址及有关情况；

（二）公司结构以及关联企业名称；

（三）申请前 6 个月内被调查产品国内销售的平均价格、交易笔数、总金额，对中华人民共和国出口的平均价格、交易笔数、总金额，对第三国（地区）出口的平均价格、交易笔数、总金额；

（四）对中华人民共和国出口被调查产品的合同、发票、提单、付款凭证的复印件以及进口商缴纳反倾销税的凭证；

（五）申请人认为需要说明的其他内容。

第十条　申请书应分为保密文本（如申请人提出保密申请）和公开文本。保密文本和公开文本均应提交 1 份正本、6 份副本。

第十一条　外经贸部自收到新出口商复审申请之日起 7 个工作日内通知原反倾销调查申请人。原反倾销调查申请人可在收到通知之日起 14 日内对应否立案进行复审发表意见。

第十二条　外经贸部应自收到申请人提交的申请书及所附证据、材料之日起 30 个工作日内，决定立案或不立案。

第十三条　如外经贸部决定不立案，应以书面形式通知申请人并说明理由。

第十四条　如外经贸部决定立案，应发布公告。

立案公告应包括如下内容：

（一）被调查产品的描述；

（二）被调查的出口商、生产商及其所属国（地区）名称；

（三）立案日期；

（四）复审调查期；

（五）利害关系方发表评论、提交相关材料的时限；

（六）调查机关进行实地核查的意向；

（七）利害关系方不合作的后果；

（八）调查机关的联系方式。

第十五条　外经贸部应在立案公告发布前通知海关，海关自公告发布之日起，停止对申请人出口的被调查产品征收反倾销税，但应要求申请人被调查产品的进口商按照原反倾销裁决中适用于"其他公司"的反倾销税率提交保证金。

第十六条　新出口商复审的调查期为复审申请提交前的 6 个月。

第十七条　外经贸部可根据需要向新出口商复审申请人进行问卷调查，问卷调查的程序遵循《反倾销问卷调查暂行规则》。

第十八条　进口产品的正常价值、出口价格以及倾销幅度按照《中华人民共和国反倾销条例》第四条、第五条和第六条的规定确定。

第十九条　出口价格根据进口产品首次转售给独立购买人的价格推定的，如果申请人有充分的证据证明，反倾销税已适当地反映在此价格及以后的国内销售价格中，则外经贸部在计算推定的出口价格时，不应扣除已缴纳的反倾销税税额。

第二十条　外经贸部可决定就申请人所提交证据、材料的准确性和完整性进行实地核查。有关实地核查的程序遵循《反倾销调查实地核查暂行规则》。

第二十一条　新出口商复审无须作出初步裁决，但外经贸部在得出初步调查结论后，应向有关利害关系方披露初步结论及所依据的事实和理由，并给予其不少于 10 天的时间提出评论和提交补充材料。

第二十二条　初步结论披露后，新出口商复审的申请人可以在 15 日内向外经贸部提出价格承诺。

第二十三条　外经贸部认为复审申请人提出的价格承诺能够接受的，经商国家经贸委后，可以决定中止或者终止复审调查；同时通知海关自承诺生效之日起停止对该新出口商出口的被调查产品征收反倾销税。

复审立案后价格承诺生效前该新出口商出口的被调查产品，按照所交保证金金额征收反倾销税。

第二十四条　新出口商复审调查自立案之日起，不超过 9 个月。

第二十五条　外经贸部应于复审期限届满 15 日前向国务院关税税则委员会提出适用于复审申请人的反倾销税建议，并在复审期限届满前根据国务院关税税则委员会的决定发布公告。

第二十六条　复审裁决确定存在倾销的，应对复审立案之后作出裁决之前复审申请人出口的被调查产品追溯征收反倾销税。

复审裁决的反倾销税，高于已付保证金的，差额部分不予收取；低于已付保证金的，差额部分应予退还。

第二十七条　本规则由外经贸部负责解释。

第二十八条　本规则自 2002 年 4 月 15 日起实施。

反倾销退税暂行规则

（2002 年 3 月 13 日对外贸易经济合作部第 22 号令发布）

第一条　为规范反倾销退税程序，根据《中华人民共和国反倾销条例》规定，制定本规则。

第二条　对外贸易经济合作部（以下简称外经贸部）指定进出口公平贸易局负责实施本规则。

第三条　倾销产品的进口商有证据证明已经缴纳的反倾销税金额超过实际倾销幅度的，可以按照本规则向外经贸部提出退税申请。

第四条　退税申请的提出不得晚于实际缴纳反倾销税后的 3 个月。

就反倾销调查立案后最终裁决前所进口的被调查产品提出的退税申请，不受前款限制，但仍须在反倾销调查作出最终裁决后的 3 个月内提出。

第五条　退税申请应以书面形式提出，并由申请人的法定代表人或其授权人正式签署。

第六条　退税申请应附下列证据和材料：

（一）申请人及其供应商的名称、地址及有关情况；

（二） 申请前 6 个月内被调查产品的国内平均销售价格、交易笔数、总金额，对中华人民共和国的平均出口价格、交易笔数、总金额，对第三国（地区）的平均出口价格、交易笔数、总金额；

（三）申请前 6 个月内被调查产品的正常价值、出口价格的数据；

（四）为计算倾销幅度而必须作出的各种调整及倾销幅度的初步计算结果；

（五）就其申请退税的被调查产品的进口合同、发票、提单、付款凭证的复印件以及申请人缴纳反倾销税的凭证；

（六）申请人认为需要说明的其他内容。

第七条　第六条（一）至（四）项应按原反倾销调查问卷所要求的内容及形式提交。

申请所附证据、材料应包括反倾销措施所适用产品全部型号的数据。出口价格的数据，应包括申请人的供应商对中华人民共和国的全部出口。

第八条　如退税申请涉及多个供应商，应分别提出申请。

第九条　如果进口商与出口商、生产商无关联关系，而上述证据、材料无法由进口商直接提供，则退税申请应包含出口商、生产商的声明。

前款所指声明应包括下列内容：被调查产品的倾销幅度已经降低或消除，且有关证据和材料将按照规定的内容和形式，在自退税申请提出之日起 30 日内，由出口商、生产商直接提交给外经贸部。

出口商、生产商在规定期间内，未能按申请人的声明提交证据、材料的，外经贸部可以驳回退税申请。

第十条　申请书应分为保密文本（如申请人提出保密申请）和公开文本。保密文本和公开文本均应提交 1 份正本、6 份副本。

第十一条　外经贸部可以根据《反倾销调查实地核查暂行规则》，对出口商、生产商所提交证据、材料的准确性和完整性进行实地核查。

如果利害关系方拒绝核查，外经贸部可根据已经获得的事实和可获得的最佳信息作出裁决，或驳回申请。

第十二条　外经贸部按照《中华人民共和国反倾销条例》第 4 条、第 5 条、第 6 条的规定，确定申请退税产品在申请前 6 个月内的正常价值、出口价格以及倾销幅度。

第十三条　出口价格根据进口产品首次转售给独立购买人的价格推定的，如果申请人有充分的证据证明，反倾销税已适当地反映在此价格及以后的国内销售价格中，则外经贸部在计算推定的出口价格时，不应扣除已

缴纳的反倾销税税额。

第十四条　如外经贸部经过审查，倾销幅度与原裁决结果相比并未降低，外经贸部应驳回退税申请。

第十五条　外经贸部驳回申请的，应通知申请人并说明理由。

第十六条　外经贸部应自接到退税申请之日起于 12 个月内完成退税审查。

第十七条　外经贸部应于退税审查期限届满 15 日前向国务院关税税则委员会提出退税建议，并在审查期限届满前将国务院关税税则委员会的决定通知申请人和海关。

第十八条　退税金额为原反倾销调查所确定的倾销幅度与新确定的倾销幅度之间的差额。

第十九条　退税申请的审查结果不影响原反倾销措施的效力。

第二十条　如经审查，外经贸部发现倾销幅度有所提高，可自主决定发起期中复审。

第二十一条　本规则由外经贸部负责解释。

第二十二条　本规则自 2002 年 4 月 15 日起实施。

关于反倾销产品范围调整程序的暂行规则

（2002 年 12 月 13 日对外贸易经济合作部第 37 号令发布）

第一条　保证反倾销工作的公平、公正、公开，根据《中华人民共和国反倾销条例》的有关规定，制定本规则。

第二条　根据《中华人民共和国反倾销条例》第十九条、第二十四条、第二十五条、第二十九条、第三十八条的规定，对外贸易经济合作部（以下简称外经贸部）在反倾销立案公告以及反倾销裁定公告（以下简称反倾销公告）中确定反倾销立案调查的产品范围和适用反倾销措施的产品范围（以下简称反倾销产品范围），海关自公告规定之日起实施。

第三条　反倾销公告实施后，反倾销产品范围的调整均需在外经贸部相关对外公告中确定，海关自公告规定之日起实施。

第四条　外经贸部反倾销公告产品范围的调整程序按本规则进行。

反倾销公告产品范围的调整程序包括申请程序和外经贸部受理申请、调查、决定及公告程序。

第五条　申请程序：

（一）反倾销立案公告后，有关利害关系方对调查产品范围提出异议，应在公告规定的时间内或经外经贸部同意延长的期限内向外经贸部提出调整调查产品范围的申请。

（二）反倾销初裁公告后，有关利害关系方对适用反倾销措施的产品范围提出异议，应在公告规定的时间内或经外经贸部同意延长的期限内向外经贸部提出调整适用反倾销措施的产品范围的申请。

（三）本规则所称利害关系方是指反倾销申请人、国外生产商、出口商、进口商以及其他有利害关系的组织、个人。

（四）申请应以书面形式提出。

第六条　申请书包括以下内容：

（一）申请人名称及其简况，申请调整的产品；

（二）要求调整的理由、理由的详细说明及相关证据；

（三）申请调整产品的详细描述和说明。产品按如下顺序依次描述：税则号、物理特征、化学特性等，描述至能够体现该产品的唯一性和排他性；上述描述方式无法体现该产品的唯一性和排他性时，需详细说明产品的用途；

（四）申请调整的进口产品与国内同类产品异同点的详细描述和说明；

（五）国外生产商、出口商、进口商及下游用户；

（六）申请人法定代表人或其合法授权人的盖章或签字。

第七条　受理、调查、决定和公告程序：

（一）外经贸部对申请人递交的申请书进行核对，对符合第六条要求的申请，予以受理；

（二）外经贸部通过问卷、实地核查、听证会等方式对申请内容的真实性进行调查和核查；

（三）外经贸部对申请内容的合理性和包括反倾销申请人在内的各利害关系方的利益进行调查，对产品的描述和说明等情况进行核查。必要时，可以聘请专家进行论证；

（四）按照上述程序规定，对符合反倾销产品范围调整条件的申请，外经贸部可以对反倾销产品范围进行调整，最迟应在最终裁定公告中对外公布；

（五）外经贸部没有收到调整产品范围的申请，根据对利害关系方提交材料的审查，也可以决定调整产品范围。

第八条　涉及有关反倾销复审的，产品范围的调整参照本规则执行。

第九条　本规则由外经贸部负责解释。

第十条　本规则自发布之日起第 30 天实施。

（二）反补贴

反补贴调查立案暂行规则

（2002 年 2 月 10 日对外贸易经济合作部第 12 号令发布）

第一章　总　　则

第一条　为规范反补贴调查申请及立案程序，根据《中华人民共和国反补贴条例》的规定，制定本规则。

第二条　对外贸易经济合作部（以下简称外经贸部）指定进出口公平贸易局负责实施本规则。

第三条　外经贸部可以应申请人的申请决定立案，进行反补贴调查；也可以自行决定立案，进行反补贴调查。

第二章　申请人资格

第四条　国内产业或者代表国内产业的自然人、法人或者有关组织（以下统称申请人），可以向外经贸部提起反补贴调查申请。

第五条　国内产业是指中华人民共和国国内同类产品的全部生产者，或者其总产量占国内同类产品全部总产量 50%以上的生产者。

第六条　申请人的产量占国内同类产品总产量虽不足 50%，但如果表示支持申请和反对申请的国内生产者中，支持者的产量占支持者和反对者的总产量的 50%以上，并且表示支持申请的国内生产者的产量不低于同类产品总产量 25%的，该申请应视为代表国内产业提出。

在确定本条第一款支持者的产量时，申请人的产量应当计算在内。

第七条　国内产业十分分散而涉及生产者数量巨大时，外经贸部可以采用统计学上有效的抽样方式审查申请人的资格。

第八条　国内生产者与出口商或者进口商有关联的，或者其本身为申请调查的产品或者其同类产品的进口商的，应当排除在国内产业之外。

第九条　国内一个区域市场中的生产者，在该市场中销售其全部或者几乎全部的同类产品，并且该市场中对同类产品的需求主要不是由国内其他地方的生产者供给的，可以视为单独产业。

第三章　申　请

第十条　反补贴调查申请应以书面形式提出。申请书应载明正式请求外经贸部立案进行反补贴调查的意思表示，并由申请人或其合法授权人盖章或签字。

第十一条　反补贴调查申请应包括下列内容并附具相关证据材料：

（一）　申请人及已知国内生产者的情况说明；

（二）　申请调查进口产品、国内同类产品的完整说明及二者的比较；

（三）　已知出口商或国外生产商、进口商情况说明和出口国（地区）；

（四）　国内产业的情况说明；

（五）　补贴的情况说明；

（六）　国内产业受到损害的情况说明；

（七）　补贴和损害之间因果关系的论证；

（八）　申请人认为需要说明的其他事项。

第十二条　申请人的情况说明应包括申请人的名称、地址、电话、传真、邮政编码、法定代表人及其联系人。

申请人委托代理人的，应当说明代理人的名称及身份等事项，并提供

委托授权书。

已知国内生产者的情况说明应包括已知国内生产者的名称、地址、邮政编码以及其他联系方式。

第十三条　申请调查的产品的情况说明应包括产品的名称、种类、规格、用途、市场情况及该产品的中华人民共和国进口关税税则号等。

国内同类产品的情况说明应包括产品的名称、种类、规格、用途及市场情况等。

对二者的比较应包括在物理特征、化学性质、生产工艺、替代性和用途等方面的比较。

第十四条　已知的出口商或国外生产商的情况说明应包括出口商或生产商的国别、名称、地址以及其他联系方式。

已知的进口商的情况说明应包括进口商的名称、地址、邮政编码以及其他联系方式。

第十五条　国内产业的情况说明应包括申请提出前三年国内同类产品每年的产量，申请提出前三年申请人每年的产量及其在国内总产量中所占的比例。

第十六条　补贴的情况说明应包括补贴的存在、性质、补贴金额和单位产品补贴额的估算额。

申请人应提供出口国（地区）给予补贴的法律文件，并列明估算单位产品接受补贴额的计算过程。

第十七条　国内产业损害的情况说明主要包括国内产业损害的类型（实质损害、实质损害威胁或实质阻碍国内产业建立）、申请调查进口产品的数量变化及价格变化、对国内同类产品的价格影响、对国内产业相关经济因素和指标的影响等方面。

第十八条　以实质损害为由提出申请的，申请人应当提供下列证据材

料：

（一）申请调查进口产品申请提出前三年的绝对进口数量或相对于国内同类产品生产量或消费量的数量增长情况；

（二） 申请调查进口产品申请提出前三年在中国国内销售的平均价格、平均价格变动图表等；

（三）申请调查进口产品申请提出前三年对国内同类产品价格影响的情况，包括对国内同类产品价格削减情况、对国内同类产品的价格压低和抑制情况、影响国内产品价格的变动值等；

（四） 申请调查进口产品对国内产业状况的影响，包括对国内产业的产量、销售、市场份额、利润、生产率、投资收益、设备利用率、影响国内价格的相关因素、现金流动、就业、工资增长、筹集资本或投资的能力、库存等因素产生的影响；申请调查进口产品为农产品的，还应提供是否给政府支持计划增加负担的相关证据。上述某个别因素不适用的，申请人应当予以说明。

第十九条　以损害威胁为由提出申请的，申请人应当提供下列损害证据材料：

（一）申请调查进口产品进入国内市场的大幅增长率或增长的可能性的证据，包括：出口国（地区）现有及潜在的出口能力、库存等。

（二）本规则第十八条第四项所规定的指标或因素指标的可明显预见并迫近的变化趋势。

第二十条　以对国内产业的建立造成实质阻碍为由提出申请的，申请人除应提供第十九条规定的证据外，还应当提供国内产业建立的计划及其实际实施情况的证据等；

第二十一条　国内产业的损害证据，应当针对国内同类产品的生产单独确定；不能针对国内同类产品的国内生产进行单独确定的，应当以包括国内同类产品在内的最窄产品组或者范围的生产确定。

第二十二条　对补贴和损害之间因果关系的论证，申请人应当分析受补贴产品的进口和损害之间的关系；还应当说明非补贴进口产品的数量和价格、需求萎缩、消费方式的变化、外国与国内生产者的限制贸易的做法及它们之间的竞争、技术发展、以及国内产业的出口实绩和生产率等因素对国内产业损害的影响。上述因素不适用的，申请人应当予以说明。

第二十三条　申请人在提供本章所规定的证据材料时，应当说明证据来源。

第二十四条　申请中涉及保密材料的，申请人应当提出保密申请，同时应提交使案件其他利害关系方能够对保密材料有合理了解的非保密概要。不能提供非保密概要的，应说明理由。

第二十五条　证据材料是外文的，申请人应当提供该证据材料的外文全文并提供相关部分的中文翻译件。

第二十六条　申请人提交的反补贴调查立案申请书应当采用中文印刷体的形式；国家有统一规定术语的，应当采用规范词语。

第二十七条　反补贴调查申请应当分为保密文本（如果申请人提出保密申请）和公开文本；保密文本应当提交正本 1 份，副本 6 份；公开文本除提交正本 1 份，副本 6 份外，还应当按已知的申请调查进口产品的出口国（地区）的数量提供副本，如涉及已知的申请调查进口产品的出口国（地区）的数量过多，可以适当减少但不能低于 5 份。

第二十八条　申请人申请时应当按进出口公平贸易局要求的计算机程序提供申请书及其证据的电子数据载体。

第二十九条　申请人可以以邮寄、直接送达或者进出口公平贸易局规定的其他方式将申请书及附具的证据材料递交进出口公平贸易局。

第三十条　申请人正式递交申请书及证据材料的，进出口公平贸易局应予签收；签收之日为外经贸部收到申请书及证据材料之日。

第四章　立　　案

第三十一条　进出口公平贸易局应当自收到申请人提交的申请书及附具的证据材料之日起 60 天内，对申请进行审查，决定立案调查或者不立案调查。情况特别复杂的，可以适当延长审查期限。

第三十二条　进出口公平贸易局应自收到申请人提交的申请书及附具的证据材料之日起 7 日内，向国家经济贸易委员会转交申请公开文本及保密文本各一套。国家经济贸易委员会至少应有 20 天对申请书及附具的证据材料进行研究并提出意见。

第三十三条　进出口公平贸易局经审查后，可以要求申请人对其反补贴调查的申请进行调整或补充材料，申请人未如期按要求进行调整或补充材料的，可以驳回申请人的申请。

第三十四条　外经贸部驳回申请人反补贴立案申请的，应当通知申请人并向其说明理由。

第三十五条　经初步审查认为申请基本符合要求的，在决定立案调查前，外经贸部应当在决定立案前邀请出口国（地区）政府进行磋商，以澄清申请中所涉事项并寻求双方满意的解决办法。

出口国（地区）政府拒绝磋商的不影响反补贴措施程序进一步进行。

第三十六条　外经贸部与出口国（地区）磋商成功取得一致意见达成协议的，外经贸部可以终止反补贴调查立案，通知申请人并说明理由。

第三十七条　出口国（地区）政府接受邀请的，外经贸部可以适当延长反补贴立案期限，进行磋商。磋商应在 60 天内结束。

磋商失败或者 60 天内达不成协议的，不影响反补贴措施程序的进一步进行。

第三十八条　决定不进行立案调查的，外经贸部不予以公告，但应通知申请人并说明理由。

第三十九条　外经贸部决定不进行立案调查的，不得公布调查申请。

第四十条　经审查决定进行立案调查的，由外经贸部予以公告并通知申请人、已知的出口商、进口商以及其他有利害关系的组织、个人和出口国（地区）政府。

第四十一条　立案公告应当载明下列内容：

（一） 申请书概要及外经贸部对申请的审查结果；

（二） 发起调查依据材料的概要说明；

（三） 发起调查的日期；

（四） 调查产品出口国（地区）；

（五） 调查的产品；

（六） 调查期；

（七） 调查机关进行实地核查的意向；

（八） 利害关系方的不应诉将承担的后果；

（九） 利害关系方提出意见的时限；

（十） 调查机关的地址及联系方式。

第四十二条　立案调查的决定一经公布，外经贸部应将申请书公开部分提供给已知的出口商和出口国（地区）政府。

第四十三条　反补贴调查的立案日期为立案调查决定公告之日。

第四十四条　在特殊情况下，外经贸部没有收到反补贴调查的书面申请，但有充分证据认为存在补贴和损害以及二者之间有因果关系的，经商国家经贸委后，可以自行决定立案调查。

自行决定立案的，外经贸部所掌握的证据应当符合本规则第三章规定的证据要求。

第四十五条　自行决定立案的程序依照本章的规定。

第五章　附　　则

第四十六条　本规则由外经贸部负责解释。

第四十七条　本规则自 2002 年 3 月 13 日起实施。

反补贴问卷调查暂行规则

（2002 年 3 月 13 日对外贸易经济合作部第 16 号令发布）

第一章　总　　则

第一条　为了保证反补贴问卷调查规范有序地进行，根据《中华人民共和国反补贴条例》的规定，制定本规则。

第二条　对外贸易经济合作部（以下简称外经贸部）指定进出口公平贸易局负责实施本规则。

第三条　本规则适用于外经贸部为确定补贴及补贴金额而通过调查问卷方式进行的反补贴调查。

第四条　本规则所称的调查问卷是指在反补贴调查中，外经贸部向报名应诉的被调查国家（地区）的生产商或出口商（以下简称应诉公司）发放的书面问题单。

第五条　应诉公司应按照外经贸部的要求，完整而准确地回答调查问卷中所列问题，提交调查问卷中所要求的信息和资料。

第二章　问卷发放

第六条　被调查国家（地区）的生产商或出口商应自反补贴调查立案之日起 20 日内，按照立案公告的要求，向外经贸部报名应诉。

第七条　报名应诉的生产商或出口商向外经贸部报名应诉时，应以印刷体简体中文形式提交以下信息：

1. 报名应诉的意思表示；

2. 应诉公司的名称、地址、法定代表人、联系方式和联系人；

3. 调查期内向中华人民共和国出口被调查产品的总数量、总金额。

报名应诉文件应有应诉公司的盖章和（或）其法定代表人的签字。

如申请书委托中华人民共和国执业律师代理呈送，应列出代理律师的姓名和联系方式、所在的律师事务所及其地址，并附授权委托书原件。

第八条　调查问卷应在报名应诉截止之日起 10 个工作日内，向应诉公司发放。

第九条　如应诉公司数量过多，外经贸部决定采取抽样方式进行反补贴调查的，调查问卷可以只发放给经抽样选中的应诉公司。

如涉及抽样调查，外经贸部可对发放问卷的期限进行适当延长。

第三章　答卷要求

第十条　应诉公司应在规定时间内提交完整而准确的答卷。答卷应当包括调查问卷所要求的全部信息。

第十一条　如应诉公司在回答问卷时对调查问卷有疑问，可以书面形式向调查问卷所列明的案件调查人员咨询。

第十二条　应诉公司在回答调查问卷所列问题时，应首先列 出问题题目，并在题目下直接回答。

第十三条　答卷应当以印刷体简体中文形式填制，并按要求提供相关证据材料。如证据材料原件是外文的，应按照外文原文的格式提供中文翻译件，并附外文原文或复印件。

第十四条　应诉公司应指明答卷中所使用的证据材料的来源和出处。所有与答卷有关的销售单证、会计记录、财务报告和其他文件除按要求附在公司的答卷中之外，均应留备核查。

第十五条　答卷要求提供的证据材料应按照交易发生的时间顺序进行整理；每一笔交易的证据材料应按照交易流程进行整理，并提供该笔交易的证据材料清单。

第十六条　如果应诉公司按照问卷要求应将调查问卷复印转交给关联贸易公司或其他公司填制时，该关联贸易公司或其他公司应按问卷要求独立提交答卷。

第四章　答卷提交

第十七条　调查问卷的答卷应当在问卷发放之日起 37 日内送达外经贸部。

第十八条　如果应诉公司有正当理由表明在答卷到期日不能完成答卷，应在问卷提交截止期限 7 日前向外经贸部提出延期提交答卷书面申请，陈述延期请求和延期理由。

外经贸部应在问卷提交截止期限 4 日前，根据申请延期的应诉公司的具体情况对申请延期请求做出书面答复。

通常情况下，延期不超过 14 日。

第十九条　应诉公司认为答卷中有需要保密内容的，应当提出保密处理的申请，并陈述需要保密的理由。

对要求保密处理的信息，应提供一份非保密概要。非保密概要应包括充分的有意义的信息，以使其他利害关系方对保密信息能有合理的了解。如不能提供非保密概要，应说明理由。

第二十条　外经贸部应当对保密申请进行审查。如认为保密理由不能成立或非保密概要不能满足第十九条第二款的要求，或应诉公司不能提供非保密概要的理由不充分，可要求应诉公司在规定期限内进行修改。

如应诉公司拒绝修改或修改后的非保密概要仍然不符合要求，外经贸部可对该材料不予考虑。

第二十一条　答卷应做成两种类型，一类为含有保密信息的完整答卷，一类为只包括公开信息的答卷。应诉公司应在答卷首页注明保密答卷或公开答卷。公开答卷中涉及保密的部分应当用“【】”号标注，并注明相应非

保密概要的序号。

第二十二条　应诉公司应提交公开答卷和保密答卷中文原件各一份、中文复印件各四份。

所有答卷均须妥善装订成册。答卷正文和所附证据材料均应按顺序标注页码。答卷应包含答卷目录和附件目录，每一附件均应列明序号。

第二十三条　应诉公司应按照答卷要求提供一份证明信，声明应诉公司提供的信息是准确和完整的，并由应诉公司法定代表人或其授权人签署。

外经贸部对没有附具证明信的答卷不予接受。

第二十四条　应诉公司提供的书面答卷和数据表格，应按照问卷要求提交计算机软盘、光盘或外经贸部可接受的其他电子数据载体。

电子数据载体的内容应当与答卷中的格式完全一致，表格中数据涉及到计算的部分应保留计算公式。

第二十五条　应诉公司应保证提供的电子数据载体不携带病毒。如果携带病毒，可被视为阻碍调查，外经贸部可依据可获得的事实和现有最佳材料做出裁定。

第二十六条　通常情况下，不提供电子数据载体，特别是不提供交易和财务数据电子数据载体的应诉公司，将被视为不合作。

如果应诉公司无法提供电子数据载体或者无法按照本规则要求提供电子数据载体，或者按照本规则要求提供电子数据载体将给应诉公司造成不合理的额外负担，应诉公司应在问卷发放之日起 15 日内向外经贸部提交书面申请，说明无法按要求提供电子数据载体的理由。外经贸部在接到申请后 5 日内对是否同意申请做出书面答复。

第二十七条　应诉公司的答卷应通过中华人民共和国执业律师代理呈送并由代理律师处理相关事宜。答卷中应提供一份有效的律师授权委托书及该代理律师有效的执业证书复印件。

第二十八条　调查问卷的答卷应在答卷截止当日 17:00 之前寄至或直接送至问卷所列地址。

送达日为外经贸部收到答卷的日期。

第五章　附　　则

第二十九条　在反补贴调查中,外经贸部可向应诉公司发放补充问卷,要求提供补充信息和材料。

关于补充问卷的发放、回答以及提交等事宜应符合本规则。

第三十条　应诉公司在规定的期限内不提交答卷，或者不能按照本规则的要求提供完整而准确的答卷，或者对其所提供的资料不允许外经贸部进行核查，或者以其他方式严重妨碍调查的，则外经贸部可依据可获得的事实和现有最佳材料做出初步或者最终裁定。

第三十一条　外经贸部可在立案调查公告后 30 日内向出口国（地区）政府或原产国（地区）政府发放调查问卷。调查问卷的发放、回答及提交参照本规则。

第三十二条　本规则由外经贸部负责解释。

第三十三条　本规则自 2002 年 4 月 15 日起实施。

反补贴调查听证会暂行规则

（2002 年 2 月 10 日对外贸易经济合作部第 10 号令发布）

第一条　为保障反补贴调查的公平、公正，维护利害关系方、利害关系国（地区）政府的合法权益，根据《中华人民共和国反补贴条例》的有关规定，制定本规则。

第二条　本规则适用于对外贸易经济合作部在反补贴调查程序中举行的补贴裁定听证会。

第三条　对外贸易经济合作部进出口公平贸易局（以下简称"进出口公平贸易局"）具体组织补贴裁定听证会。

第四条　补贴裁定听证会应公开举行。但涉及国家秘密、商业秘密或个人隐私的，进出口公平贸易局决定后可采取其他方式举行。

第五条　进出口公平贸易局应利害关系方、利害关系国（地区）政府的申请举行听证会。进出口公平贸易局如认为必要时，可以自行决定举行听证会。

第六条　进出口公平贸易局自行举行听证会的，应当事先通知利害关系方和利害关系国（地区）政府，并适用本规则的相关规定。

第七条　本规则所指利害关系方为反补贴调查的申请人、已知的出口经营者和进口经营者，以及其他有利害关系的组织或个人。利害关系国（地区）政府指出口国（地区）政府或原产国（地区）政府。

第八条　利害关系方、利害关系国（地区）政府要求举行听证会的，应向进出口公平贸易局提出要求举行听证会的书面申请。

申请书应当包括下列内容：

（一）听证会申请人的名称、地址和有关情况；

（二）申请的事项；

（三）申请的理由。

第九条　进出口公平贸易局应当在收到利害关系方、利害关系国（地区）政府的听证会申请后 15 天内决定是否举行听证会，并通知包括申请人在内的有关利害关系方、利害关系国（地区）政府。

第十条　进出口公平贸易局决定举行听证会的通知应包括如下内容：

（一）决定举行听证会；

（二）决定举行听证会的理由；

（三）各利害关系方、利害关系国（地区）政府在听证会前的登记的时间、地点及相关要求；

（四）其他与听证会有关的事项。

第十一条　各利害关系方、利害关系国（地区）政府在收到决定举行听证会的通知后，应根据通知的内容和要求及时向进出口公平贸易局登记，并提交听证会发言的书面概要和有关证据。

第十二条　进出口公平贸易局应当在决定举行听证会的通知所确定的登记截止之日起 20 天内对听证会举行的时间、地点、听证会主持人、听证会会议议程做出决定，并通知已登记的利害关系方、利害关系国（地区）政府。

第十三条　听证会主持人在听证会中行使下列职权：

（一）主持听证会会议的进行；

（二）确认参加听证会人员的身份；

（三）维护听证会秩序；

（四）向各利害关系方、利害关系国（地区）政府发问；

（五）决定是否允许各利害关系方、利害关系国（地区）政府补充提

交证据；

（六）决定中止或终止听证会；

（七）需要在听证会中决定的其他事项。

第十四条　参加听证会的利害关系方可以由其法定代表人或主要负责人参加听证会，也可委托 1 至 2 名代理人参加听证会。

第十五条　参加听证会的利害关系方、利害关系国（地区）政府应当承担下列义务：

（一）按时到达指定地点出席听证会；

（二）遵守听证会纪律，服从听证会主持人安排；

（三）如实回答听证会主持人的提问。

第十六条　听证会应当遵照下列程序进行：

（一）听证会主持人宣布听证会开始，宣读听证会纪律；

（二）　核对听证会参加人；

（三）利害关系方、利害关系国（地区）政府陈述；

（四）听证会主持人询问利害关系方、利害关系国（地区）政府；

（五）利害关系方、利害关系国（地区）政府作最后陈述；

（六）听证会主持人宣布听证会结束。

第十七条　听证会旨在为调查机关提供进一步收集信息和为各利害关系方、利害关系国（地区）政府提供陈述意见及提交证据的机会，不设辩论程序。

第十八条　听证会应当制作笔录，听证会主持人、笔录记录人、参加听证会的各利害关系方、利害关系国（地区）政府应当场签名或者盖章。利害关系方、利害关系国（地区）政府拒绝签名或者盖章的，听证会主持

人应当在听证笔录上载明有关情况。

第十九条　有下列情形之一的，经进出口公平贸易局决定可以延期或取消举行听证会：

（一）听证会申请人因不可抗力的事件或行为，且已提交延期或取消听证会的书面申请的；

（二）反补贴调查终止；

（三）其他应当延期或取消的事项。

第二十条　听证会延期举行的原因消除后，进出口公平贸易局应决定恢复举行听证会，并通知已登记的利害关系方和利害关系国（地区）政府。

第二十一条　本规则所指通知形式为对外贸易经济合作部公告，特殊情况下进出口公平贸易局可以采取其他形式。

第二十二条　听证会使用的工作语言为中文。

第二十三条　对外贸易经济合作部负责本规则的解释。

第二十四条　本规则自 2002 年 3 月 13 日施行。

反补贴调查实地核查暂行规则

(2002 年 3 月 13 日对外贸易经济合作部第 17 号令发布)

第一条　为规范反补贴调查实地核查程序，根据《中华人民共和国反补贴条例》的规定，制定本规则。

第二条　对外贸易经济合作部（以下简称外经贸部）指定进出口公平贸易局负责实施本规则。

第三条　本规则所指实地核查，是指外经贸部在反补贴调查过程中派出工作人员赴有关出口国（地区），核实有关出口商、生产商所提交的材料的真实性、准确性和完整性及进一步搜集信息材料的程序。

第四条　外经贸部只对反补贴调查中充分合作的出口国（地区）的出口商、生产商进行实地核查。

第五条　实地核查主要核查有关出口商、生产商所提交的信息和材料，包括：

（一）出口商、生产商所提交答卷中涉及的所有信息和材料；

（二）出口商、生产商应外经贸部的要求所提交的补充答卷中涉及的信息和材料；

（三）出口商、生产商主动向外经贸部提交的有关信息和材料；

（四）外经贸部认为需要核实的其他信息和材料。

第六条　外经贸部可根据案件的不同情况，作出是否进行实地核查的决定。

第七条　外经贸部通常在作出初步裁定后进行实地核查；也可根据案件的具体情况，在做出初步裁定前进行。

第八条　外经贸部决定进行实地核查的，应当提前通知将要被核查的

出口商、生产商及其所在国（地区）政府。

第九条　外经贸部进行实地核查前，应取得被核查出口商、生产商的明确同意。

第十条　实地核查获得被核查出口商、生产商同意的，外经贸部应将被核查的出口商、生产商的名称、地址以及商定的核查日期等信息通知其所在国（地区）政府。被核查出口商、生产商的所在国（地区）政府表示异议的，外经贸部不得进行实地核查。

第十一条　外经贸部应在实地核查前将具体行程通知被核查的出口商、生产商。

第十二条　核查小组由外经贸部负责组织，通常由负责反补贴案件调查的政府人员组成。

在特殊情况下，外经贸部可以邀请非政府专家参与核查。但应事前通知被核查的出口商、生产商及其所在国（地区）政府。该非政府专家应严格遵守保密义务。

第十三条　核查小组应在实地核查前将需要核实的信息的一般性质和需要进一步搜集的信息通知被核查的出口商、生产商。

核查小组根据需要可以在实地核查前向被核查出口商、生产商发放具体的核查问题清单。

第十四条　被核查的出口商、生产商应保存并整理好支持答卷和补充答卷中所提供信息的所有证据和材料，以备核查。

上述证据材料的原始记录通过某种电脑程序以电子数据的形式存在的，被核查出口商、生产商应保证在核查过程中该程序正常运转，并且该电子数据可复制、打印。

第十五条　被核查的出口商、生产商在核查过程中应积极配合核查小组的工作；并应配备最初准备材料及答卷的负责人和其他主管人员，随时

解释核查小组提出的问题。

第十六条　实地核查的工作语言为中文或核查小组同意的其他语言。

第十七条　核查小组可以根据案件的复杂程度，决定采取全面核查或抽样核查的方法。

第十八条　实地核查可以按照事先通知的范围进行，但该范围不妨碍核查小组根据所获得的信息和材料当场要求提供进一步的信息和材料。

第十九条　核查结束后，外经贸部应在合理期间内向被核查出口商、生产商披露核查结果；外经贸部可以应其他利害关系方的请求披露该核查的概要情况，但不得披露被核查出口商、生产商的保密信息。

第二十条　经过核实的答卷或补充答卷中提供的信息和材料以及核查中进一步搜集的信息和材料将作为外经贸部裁定补贴和补贴金额的依据。

第二十一条　有下列情况之一的，外经贸部可以根据已经获得的事实和可获得的最佳信息确定补贴和补贴金额。

（一）有关出口商、生产商拒绝实地核查的；

（二）被核查出口商、生产商所在国（地区）政府对实地核查提出异议的；

（三）对核查小组提出的合理要求，被核查出口商、生产商不积极合作的；

（四）被核查出口商、生产商拖延核查，致使核查未能如期完成的；

（五）核查中发现被核查出口商、生产商所提供的信息和材料在真实性、准确性和完整性等方面存在重大问题的；

（六）被核查出口商、生产商存在明显的欺骗、隐瞒行为的；

（七）有其他阻碍实地核查行为的。

第二十二条　外经贸部根据调查的需要可以对有关被调查产品的国内

进口商进行实地核查，该核查参照本规则进行。

第二十三条　应有关出口商、生产商的请求，且其所在国（地区）政府对此未提出异议的，外经贸部可以派工作人员赴该出口国（地区）解释反补贴调查问卷。

第二十四条　本规则由外经贸部负责解释。

第二十五条　本规则自 2002 年 4 月 15 日起实施。

（三）保障措施

保障措施调查立案暂行规则

（2002 年 2 月 10 日对外贸易经济合作部第 9 号令发布）

第一章　总　　则

第一条　为规范保障措施调查申请及立案程序，根据《中华人民共和国保障措施条例》的规定，制定本规则。

第二条　对外贸易经济合作部（以下简称外经贸部）指定进出口公平贸易局负责实施本规则。

第三条　外经贸部可以应申请人的申请决定立案,进行保障措施调查；也可以自行决定立案,进行保障措施调查。

第二章　申　请

第四条　与国内产业有关的自然人、法人或者其他组织（以下统称申请人），可以向外经贸部提出保障措施调查申请。

第五条　保障措施调查申请应以书面形式提出。申请书应载明正式请求外经贸部立案进行保障措施调查的意思表示，并由申请人或其合法授权人盖章或签字。

第六条　申请应当包括下列各项内容：

（一）申请人情况的说明；

（二）申请调查进口产品、国内同类产品或直接竞争产品的说明；

（三）已知的申请调查进口产品出口国（地区）、出口商、生产商以及

进口商的情况；

（四）国内产业情况的说明；

（五）申请调查进口产品数量增长情况的说明；

（六）损害情况的说明；

（七）进口增长与损害之间因果关系的说明；

（八）请求；

（九）申请人认为需要说明的其他事项。

第七条　关于申请人情况，申请人应当提供下列资料：

申请人的名称、法定代表人、地址、电话、邮政编码、传真、联系人等。

申请人聘请了委托代理人的，还应当说明代理人的名称及身份等事项并提供授权委托书。

第八条　关于申请调查进口产品、国内同类产品或直接竞争产品，申请人应当提供下列证据资料：

（一）申请调查进口产品的详细说明包括名称、种类、规格、产品用途、市场情况、中华人民共和国进口关税税则号等；

（二）国内同类或者直接竞争产品的名称、种类、规格、产品用途、市场情况等；

（三）申请调查进口产品与国内同类或者直接竞争产品的异同点比较，包括产品的物理特征、化学性能、生产工艺、用途以及可替代性等方面。

（四）外经贸部认为需要提供的其他证据资料。

第九条　申请人应当提供申请调查进口产品出口国（地区）、原产国（地区）名称，已知的申请调查进口产品的出口商、生产商和进口商的名称、地址和联系方式。

第十条　关于国内产业情况，申请人应当提供下列证据资料：

（一）所有已知的国内生产商以及相关协会、商会的名称、地址和联系方式；

（二）申请提出前五年内，所有生产商每年生产的同类或者直接竞争产品的国内生产总量；

（三）提出申请前五年内，申请人每年所生产的同类或者直接竞争产品的产量以及所占国内产总量的份额；

（四）外经贸部认为需要提供的其他证据资料。

第十一条　关于申请调查进口产品数量增长情况，申请人应当提供下列证据资料：

（一）提出申请前至少五年内该产品每年进口的数量及金额并以变动曲线图表予以表明；

（二）提出申请前至少五年内申请调查进口产品各出口国（地区）出口的绝对数量以及各国（地区）出口量占申请调查进口产品全部进口量的百分比；

（三）提出申请前至少五年内，从数量和金额两方面说明申请调查进口产品和国内同类产品或直接竞争产品各自在国内消费总量中所占份额；

（四）进口增长的原因的分析，考虑因素包括但不限于过去五年里针对该产品所征收的进口关税税率、申请调查进口产品可能享有的减让或优惠待遇的资料以及申请调查进口产品的出口价格等；

（五）外经贸部认为需要提供的其他证据资料。

第十二条　以进口增加已经导致国内产业严重损害为由提出申请的，申请人应当提供下列证据资料：

（一）影响国内产业状况的所有相关的客观和可量化的因素或指标，特别是：申请调查进口产品按绝对值和相对值计算的进口增加的比率和数

量，增加的进口所占国内市场的份额，以及销售水平、产量、生产率、设备利用率、利润和亏损以及就业的变化；

（二）申请调查进口产品价格对国内同类产品或直接竞争产品价格的影响的证据资料；

（三）外经贸部认为需要提供的其他证据资料。

第十三条　以进口增加造成国内产业严重损害威胁为由提出申请的，申请人应当提供下列证据资料：

（一）申请调查进口产品出口国的出口能力、库存情况以及进口将可能继续增加的证据资料；

（二）本规则第十二条（一）项所列因素或指标的明显迫近的变化趋势。

第十四条　申请人在主张申请调查进口产品对国内产业的影响及提供证据材料时，应当针对国内同类产品或直接竞争产品的生产进行单独确定；不能针对国内同类产品或直接竞争产品的生产进行单独确定的，应当以包括国内同类产品或直接竞争产品在内的最窄产品组或者范围的生产确定。

第十五条　关于进口增长与损害之间的因果关系，申请人应当分析所提交的上述资料，说明进口增长与国内产业损害二者之间的因果关系。

申请人在证明进口增长与国内产业损害之间的因果关系时，应当分析进口增长以外的同时导致产业损害的任何已知因素，这些因素包括但不限于需求的减少或消费模式的变化、外国和国内生产商的限制贸易做法以及它们之间的竞争、技术发展以及国内产业的出口实绩和生产率。申请人认为上述个别因素不适用的，应当予以说明。

第十六条　申请人应当在申请书中说明要求采取保障措施的请求，可以说明要求采取措施的形式、具体内容、期限及理由等。

第十七条　申请人同时申请实施临时保障措施的，应提供进口增长对

国内产业已经造成严重损害或者正在造成严重损害威胁、如迟延采取措施将会造成难以补救的损害的证据，并说明关税应予提高的幅度。

第十八条　申请人在提供本章所规定的证据材料时，应当说明证据来源。

第十九条　申请中如涉及保密材料的，申请人应当提出保密申请；对于保密材料，申请人应当提交使案件其他利害关系方能够对保密材料有合理了解的非保密概要；如果申请人不能提供非保密概要，须说明理由。

第二十条　保障措施调查申请书及有关证据资料应以简体中文印刷体形式提交。国家有统一规定术语的，应当采用规范用语。

如果申请人所提供的证据材料是外文的，申请人应当提供该材料的外文全文，并提供相关部分的中文翻译件。

第二十一条　申请书及附具的证据资料应当包括保密文本（申请人提出保密申请的）和公开文本；其中，申请人应当提供保密文本正本 1 套，副本 6 套，公开文本除了正本 1 套，副本 6 套外，申请人还应当按申请调查进口产品的出口国（地区）的数量提供副本，如果申请调查进口产品出口国（地区）数量过多，则可以适当减少，但不得少于 5 份。

第二十二条　申请人应当按照进出口公平贸易局要求的计算机程序提供申请书及其证据资料的电子数据载体。

第二十三条　申请人应当以邮寄或直接送达等方式将申请书及证据材料递交进出口公平贸易局。

第二十四条　申请人正式递交申请书及证据资料的，进出口公平贸易局应予以签收，签收之日为进出口公平贸易局收到申请书及有关证据资料之日。

第二十五条　在做出立案调查决定并予公告之前，外经贸部应对申请人所提交的资料予以保密。

第三章　立　　案

第二十六条　进出口公平贸易局可以采取问卷或实地核查等方式对申请书及证据材料中包括申请人的资格、申请调查进口产品等问题进行调查。

第二十七条　外经贸部通常应在正式收到要求采取保障措施的书面申请后 60 日内做出是否立案的决定，情况特别复杂的，可以适当延长审查期限。

第二十八条　进出口公平贸易局在本规则第二十七条规定的期间内可以要求申请人对其保障措施调查申请进行调整或补充，申请人不做调整或补充或未按要求的内容和时间调整或补充的，可以驳回申请人的申请，并通知申请人。

第二十九条　外经贸部决定不予立案的，则应当将不立案的决定通知申请人，并告之不予立案的理由。

第三十条　外经贸部决定立案的，应当发布立案公告。

公告应载明下列内容：

（一）　申请调查进口产品的名称及说明；

（二）　申请调查进口产品的出口国（地区）；

（三）　立案依据材料的概要说明；

（四）　发起保障措施调查的日期；

（五）　保障措施调查期限；

（六）　允许利害关系方提出意见的时限；

（七）　调查机关的联系方式。

第三十一条　外经贸部应当在作出立案调查的决定后 7 个工作日内通知世界贸易组织保障措施委员会。

第三十二条　保障措施调查的立案日期为立案调查决定公告之日。

第四章　自行立案

第三十三条　外经贸部没有收到采取保障措施的书面申请，但有充分证据认为国内产业因申请调查进口产品数量增加而受到严重损害或者严重损害威胁的，可以自行决定立案，进行保障措施调查。

第三十四条　外经贸部自行立案，发起保障措施调查，其所掌握的证据资料应当符合本规则第二章的有关规定。

第五章　附　则

第三十五条　本规则由外经贸部负责解释。

第三十六条　本规则自 2002 年 3 月 13 日起实施。

保障措施调查听证会暂行规则

（2002 年 2 月 10 日对外贸易经济合作部第 11 号令发布）

第一条　为保证保障措施调查的公平、公正，维护利害关系方的合法权益，根据《中华人民共和国保障措施条例》的有关规定，制定本规则。

第二条　本规则适用于对外贸易经济合作部在保障措施调查程序中举行的为确定进口产品数量增加及其与损害之间因果关系而进行的听证会。

第三条　对外贸易经济合作部进出口公平贸易局（以下简称"进出口公平贸易局"）具体组织本规则所称听证会。

第四条　本规则所称听证会应公开举行。但涉及国家秘密、商业秘密或个人隐私的，进出口公平贸易局决定后可采取其他方式举行。

第五条　进出口公平贸易局应利害关系方的申请举行听证会。进出口公平贸易局如认为必要时，可以自行决定举行听证会。

第六条　进出口公平贸易局自行举行听证会的，应当事先通知利害关系方，并适用本规则的相关规定。

第七条　本规则所指利害关系方为保障措施调查的申请人、出口国（地区）政府、原产国（地区）政府、已知的出口经营者和进口经营者，以及其他有利害关系的组织或个人。

第八条　利害关系方要求举行听证会的，应当向进出口公平贸易局提出要求举行听证会的书面申请。

申请书应当包括下列内容：

（一）　听证会申请人的名称、地址和有关情况；

（二）　申请的事项；

（三）　申请的理由。

第九条　进出口公平贸易局应当在收到利害关系方的听证会书面申请后 15 天内决定是否举行听证会，并应及时通知有关利害关系方。

第十条　进出口公平贸易局决定举行听证会的通知应包括如下内容：

（一）决定举行听证会；

（二）决定举行听证会的理由；

（三）各利害关系方在听证会前的登记的时间、地点及相关要求；

（四）其他与听证会有关的事项。

第十一条　各利害关系方在收到决定举行听证会的通知后，应根据通知的内容和要求及时向进出口公平贸易局登记，并提交听证会发言的书面概要和有关证据。

第十二条　进出口公平贸易局应当在决定举行听证会的通知所确定的登记截止之日起 20 天内对听证会举行的时间、地点、听证会主持人、听证会会议议程做出决定，并通知已登记的利害关系方。

第十三条　听证会主持人在听证会中行使下列职权：

（一）主持听证会会议的进行；

（二）确认参加听证会人员的身份；

（三）维护听证会秩序；

（四）向各利害关系方发问；

（五）决定是否允许各利害关系方提交补充证据，是否对已出示的证据进行鉴定；

（六）决定中止或者终止听证会；

（七）需要在听证会中决定的其他事项。

第十四条　参加听证会的利害关系方可以由其法定代表人或主要负责

人参加听证会，也可委托 1 至 2 名代理人参加听证会。

第十五条　参加听证会的利害关系方应当承担下列义务：

（一） 按时到达指定地点出席听证会；

（二） 遵守听证会纪律，服从听证会主持人安排；

（三） 如实回答听证会主持人的提问。

第十六条　听证会应当遵照下列程序进行：

（一） 听证会主持人宣布听证会开始，宣读听证会纪律；

（二） 核对听证会参加人；

（三） 利害关系方陈述；

（四） 听证会主持人询问利害关系方；

（五） 利害关系方作最后陈述；

（六） 主持人宣布听证会结束。

第十七条　听证会旨在为调查机关提供进一步收集信息和为各利害关系方提供陈述意见及提交证据的机会，不设辩论程序。

第十八条　听证会应当制作笔录，听证会主持人、笔录记录人、参加听证会的各利害关系方应当当场签名或者盖章。利害关系方拒绝签名或者盖章的，听证会主持人应当在听证笔录上载明有关情况。

第十九条　有下列情形之一的，经进出口公平贸易局决定可以延期或取消举行听证会：

（一）听证会申请人因不可抗力的事件或行为，且已提交延期或取消听证会的书面申请的；

（二）保障措施调查终止；

（三）其他应当延期或取消的事项。

第二十条　听证会延期举行的原因消除后，进出口公平贸易局应当立即恢复听证会，并通知已登记的利害关系方

第二十一条　本规则所指通知形式为对外贸易经济合作部公告，特殊情况下进出口公平贸易局可以采取其他形式。

第二十二条　听证会使用的工作语言为中文。

第二十三条　对外贸易经济合作部负责本规则的解释。

第二十四条　本规则自 2002 年 3 月 13 日施行。

关于保障措施产品范围调整程序的暂行规则

（2002 年 12 月 13 日对外贸易经济合作部第 38 号令发布）

第一条 为保证保障措施工作的公平、公正、公开，根据《中华人民共和国保障措施条例》的有关规定，制定本规则。

第二条 根据《中华人民共和国保障措施条例》第五条、第十五条、第十六条、第十八条、第二十一条的规定，对外贸易经济合作部（以下简称外经贸部）在保障措施立案公告以及保障措施裁定公告（以下简称保障措施公告）中确定保障措施立案调查的产品范围和适用保障措施的产品范围（以下简称保障措施产品范围），海关自公告规定之日起实施。

第三条 保障措施公告实施期间，保障措施产品范围的调整均需在外经贸部相关对外公告中确定，海关自公告规定之日起实施。

第四条 外经贸部保障措施公告产品范围的调整程序按本规则进行。

保障措施公告产品范围的调整程序包括申请程序和外经贸部受理申请、调查、决定及相关公告的程序。

第五条 申请程序：

(一) 保障措施立案公告后，有关利害关系方对调查产品范围提出异议，应在公告规定的时间内或经外经贸部同意延长的期限内向外经贸部提出调整调查产品范围的申请。

(二) 保障措施初裁公告后，有关利害关系方对适用保障措施产品范围提出异议，应在公告规定的时间内或经外经贸部同意延长的期限内向外经贸部提出调整适用保障措施产品范围的申请。

(三) 本规则所称利害关系方是指保障措施申请人、国外生产商、出口商、进口商以及其他有利害关系的组织、个人。

(四) 申请应以书面形式提出。

第六条 申请书包括以下内容：

(一) 申请人名称及其简况，申请调整的产品；

(二) 要求调整的理由、理由的详细说明及相关证据；

(三) 申请调整产品的详细描述和说明。产品按如下顺序依次描述：税则号、物理特征、化学特性等，描述至能够体现该产品的唯一性和排他性；上述描述方式无法体现该产品的唯一性和排他性时，需详细说明产品的用途；

(四) 申请调整的进口产品与国内同类产品或直接竞争产品的异同点和可替代性的详细描述和说明；

(五) 申请调整的进口产品前五年的进口量和进口金额以及对后三年预测的进口量；

(六) 国外生产商、出口商、进口商及下游用户；

(七) 申请人法定代表人或其合法授权人的盖章或签字。

第七条 受理、调查、决定和公告程序：

(一) 外经贸部对申请人递交的申请书进行核对，对符合第六条要求的申请，予以受理；

(二) 外经贸部通过问卷、实地核查、听证会等方式对申请内容的真实性进行调查和核查；

(三) 外经贸部对申请内容的合理性和包括保障措施申请人在内的各利害关系方的利益进行调查，对产品的描述和说明等情况进行核查。必要时，可以聘请专家进行论证；

(四) 按照上述程序规定，对符合保障措施产品范围调整条件的申请，外经贸部可以决定对保障措施产品范围进行调整并予以公告；

(五) 外经贸部没有收到调整产品范围的申请，根据对利害关系方提交材料的审查，也可以决定调整产品范围；

(六) 最终保障措施终裁决定实施后，如有必要对公告内容进行调整的，可以参照上述程序决定后，均由外经贸部予以公告。

第八条 涉及有关保障措施复审的，产品范围的调整参照本规则执行。

第九条 本规则由外经贸部负责解释。

第十条 本规则自公布之日后 30 天开始实施。

（四）出口应诉

出口产品反倾销案件应诉规定

（2006 年 7 月 14 日商务部第 12 号令发布）

第一条 为做好国外针对中国出口产品发起的反倾销案件的应诉工作，维护企业的正当权益,根据《中华人民共和国对外贸易法》、《中华人民共和国货物进出口管理条例》，制定本规定。

第二条 本规定适用于针对中国出口产品发起的反倾销案件的应诉工作，包括新立案调查、复审调查、反吸收调查、反规避调查等。

第三条 在反倾销案件调查期内生产和向调查国或地区出口涉案产品的企业应积极应诉。

第四条 进出口商会等行业组织应依照章程，加强行业自律，维护行业经营秩序，负责反倾销案件应诉工作的行业协调，促进会员企业应诉国外反倾销案件。

第五条 商务部可制定有关促进反倾销案件应诉工作的政策和措施。

第六条 商务部应及时公布与反倾销案件调查或应诉工作相关的信息，地方商务主管部门和行业组织在获知有关信息后应立即通知涉案企业。

前款规定的信息主要包括：

（一）有关发起反倾销案件新立案调查的信息；

（二）有关发起反倾销案件复审调查的信息；

（三）有关发起反倾销案件反吸收、反规避等调查的信息；

（四）对案件应诉工作有重大影响的其他信息。

第七条在获知有关可能发起反倾销案件新立案调查的信息后，行业组织应根据涉案产品的出口情况，做好应诉协调准备。

第八条 企业应依法规范出口行为，维护行业出口秩序，做好反倾销案件信息的搜集、整理工作，及时向行业组织报送。

第九条 参加应诉的涉案企业享有如下权利：

（一）决定应诉方式；

（二）自主选聘律师；

（三）从行业组织获知案件调查整体进展和其他企业的应诉情况等信息；

（四）获得行业组织对应诉工作的指导和帮助；

（五）针对反倾销案件调查机关存在的歧视性做法等，向政府提出应对意见或建议。

第十条 应诉企业不得从事任何可能影响其他应诉企业合法权益的活动，不得从事任何可能影响行业整体应诉工作的活动。

第十一条 行业组织应定期组织有关反倾销法律知识的培训，可从会费中设立促进会员企业应诉的专项资金。

第十二条 行业组织协调反倾销案件应诉工作的职责主要有：

（一）建立出口商品统计监管系统和贸易救济案件信息收集反馈机制；

（二）根据应诉企业的要求，就有关替代国、市场经济地位和分别裁决等技术问题的抗辩、国外调查机关的实地核查等问题予以协助；

（三）组织应诉企业参加听证会、与国外调查机关和相关行业组织或企业进行磋商、谈判等工作；

（四）根据应诉企业的要求，就价格承诺协议谈判的有关问题予以协助；

如需以政府名义签订“价格承诺协议”或“中止协议”的，可向商务部提出方案建议；

（五）协助应诉企业就反倾销裁决结果在调查国或地区寻求司法救济；

（六）提供律师信息的服务，建立律师信息库；

（七）应定期在《国际商报》和本单位的网站上公布年度到期的行政复审案件等信息；

（八）其他需要行业组织协调的工作。

第十三条 行业组织应根据第十二条的规定，制定并公布行业组织应诉协调工作的操作规程。

第十四条 根据应诉企业的要求，行业组织统一协调聘请律师的，应遵循公开、公正、透明的原则，择优选择律师。

应诉企业自行选聘律师出现两家以上律师事务所代理同一案件时，行业组织应在应诉工作全程协调各律师事务所的工作，以保证行业整体应诉工作的效果。

第十五条 反倾销案件立案前 3 年内曾代理过调查国或地区企业，申请发起针对中国产品的贸易救济措施调查的律师和律师事务所不得参加律师竞聘。

行业组织应将在代理行为中曾严重影响或损害我企业、行业利益的律师和律师事务所通知应诉企业。

第十六条 行业组织就下列案件的应诉协调工作应征询商务部意见：

（一）涉案产品在调查期内出口金额较大；

（二）涉案产品在调查国或地区市场份额较大，存在较大影响的；

（三）行业组织之间就组织协调应诉工作无法形成一致意见，可能影响案件应诉结果的；

（四）调查机关对我企业实施歧视性政策和调查方法的；

（五）其他需要征询的重要案件。

第十七条 地方商务主管部门应做好涉及本地区企业反倾销案件信息统计工作、建立信息报送系统、评估国外反倾销对本地区出口贸易的影响；定期组织有关反倾销法律知识的培训、根据本地区实际制定促进反倾销案件应诉工作的政策和措施；应行业组织的要求，对本地区涉案企业应诉工作进行协调。

第十八条 各驻外使（领）馆、使团经商处（室）应及时跟踪和搜集国外反倾销立法修订情况和反倾销案件立案或复审动态及有关信息。

第十九条 本规定由商务部负责解释。

第二十条 本规定自 2006 年 8 月 14 日起执行。《出口产品反倾销应诉规定》（〔2001〕外经贸部令第 5 号）同时废止。

（五）对外贸易壁垒调查

对外贸易壁垒调查规则

（2005 年 2 月 2 日商务部第 4 号令发布）

第一章　总　则

第一条 为了开展和规范对外贸易壁垒调查工作，消除国外贸易壁垒对我国对外贸易的影响，促进对外贸易的正常发展，根据《中华人民共和国对外贸易法》，制定本规则。

第二条 商务部负责对国外贸易壁垒的调查工作。

商务部指定进出口公平贸易局负责实施本规则。

第三条 外国（地区）政府采取或者支持的措施或者做法，存在下列情形之一的，视为贸易壁垒：

（一）违反该国（地区）与我国共同缔结或者共同参加的经济贸易条约或者协定，或者未能履行与我国共同缔结或者共同参加的经济贸易条约或者协定规定的义务；

（二）造成下列负面贸易影响之一：

对我国产品或者服务进入该国（地区）市场或者第三国（地区）市场造成或者可能造成阻碍或者限制；

对我国产品或者服务在该国（地区）市场或者第三国（地区）市场的竞争力造成或者可能造成损害；

对该国（地区）或者第三国（地区）的产品或者服务向我国出口造成或者可能造成阻碍或者限制。

第四条 商务部可以应申请人的申请立案，进行贸易壁垒调查。

商务部认为有必要的，可以自行立案，进行贸易壁垒调查。

第二章 调查申请

第五条 国内企业、国内产业或者代表国内企业、国内产业的自然人、法人或者其他组织（以下统称申请人），可以向商务部提出贸易壁垒调查的申请。

前款所称的“国内企业、国内产业”，是指与被诉贸易壁垒涉及的产品生产或者服务供应有直接关系的企业或者产业。

第六条 贸易壁垒调查的申请必须以书面形式提交。

第七条 申请书应当包括以下内容：

（一）申请人的名称、地址及有关情况；

（二）被申请调查的措施或者做法的说明；

（三）被申请调查的措施或者做法所针对的产品或者服务的说明；

（四）国内相关产业基本情况的说明；

（五）被申请调查的措施或者做法造成负面贸易影响的，关于负面贸易影响的说明；

（六）申请人认为需要说明的其他内容。

第三章 审查和立案

第八条 申请书应当尽可能附具下列证据材料并说明其来源：

（一）证明被申请调查的措施或者做法存在的证据材料；

（二）证明被申请调查的措施或者做法造成的负面贸易影响的证据材料。

申请人无法提供上述证据材料的，应当以书面形式说明理由。

第九条 申请人可以在商务部作出立案决定之前撤回申请。

第十条 商务部应当自收到申请人提交的申请书及有关证据材料之日起 60 天内，对申请材料进行审查，作出立案或者不予立案的决定。

第十一条 商务部在审查申请材料的过程中，可以要求申请人按照规定的时限提供补充材料。

第十二条 如果申请人提交的申请材料符合本规则第六条和第七条的规定，并且不存在本规则第十六条第（一）、（三）和（四）项规定的情形，商务部应当决定立案调查并发布公告。

商务部决定自行立案的，也应当发布立案公告。

第十三条 立案公告应当载明被调查的措施或者做法、被调查的措施或者做法涉及的产品或者服务以及实施被调查的措施或者做法的国家（地区）（以下简称“被调查国（地区）”）等内容，简要介绍已有的信息，并说明利害关系方陈述意见及公众提出评论的期限。

第十四条 商务部应当在发布立案公告后，将立案决定通知申请人、已知的出口经营者和进口经营者、被调查国（地区）政府以及其他利害关系方。

第十五条 立案公告发布之日为立案日期。

第十六条 出现以下情形之一的，商务部可以作出不予立案的决定：

（一）申请人提交的申请材料所描述的情况与事实明显不符；

（二）申请人提交的申请材料不完整，并且未在商务部规定的时限内提供补充材料；

（三）申请人申请调查的措施或者做法明显不属于本规则第三条所指的贸易壁垒；

（四）商务部认为不应立案的其他情形。

第十七条 商务部应当以书面形式将不予立案的决定通知申请人，并说明理由。

第四章 调查和认定

第十八条 商务部应当通过调查认定被调查的措施或者做法是否构成本规则第三条所称的贸易壁垒。

第十九条 在调查中，商务部可以使用主动收集的任何相关信息。

第二十条 商务部认为必要时，可以成立由国务院有关部门、专家、学者组成的专家咨询组。专家咨询组负责对调查中涉及的技术性和法律性问题提供咨询意见。

第二十一条 商务部可以采用问卷、听证会等方式向利害关系方了解情况，进行调查。

第二十二条 商务部认为必要时，可以在征得被调查国（地区）政府同意后，派出工作人员赴该国（地区）进行调查取证。

第二十三条 利害关系方认为其提供的资料泄露后将产生严重不利影响的，可以向商务部申请对该资料按照保密资料处理。

第二十四条 商务部认为保密申请有正当理由的，应当对利害关系方提供的资料按照保密资料处理，同时要求利害关系方提供一份非保密的资料概要。

未经提供资料的利害关系方同意，商务部不得将按照保密资料处理的资料用于该贸易壁垒调查以外的用途。

第二十五条 商务部在调查过程中，可以就被调查的措施或者做法与被调查国（地区）政府进行磋商。

第二十六条 出现以下情形之一的，商务部可以决定中止调查并发布公

告：

（一）被调查国（地区）政府承诺在合理期限内取消或者调整被调查的措施或者做法；

（二）被调查国（地区）政府承诺在合理期限内向我国提供适当的贸易补偿；

（三）被调查国（地区）政府承诺履行经济贸易条约或者协定的义务；

（四）商务部认为可以中止调查的其他情形。

第二十七条 被调查国（地区）政府未在合理期限内履行本规则第二十六条第（一）至（三）项承诺的，商务部可以恢复调查；商务部根据本规则第二十六条第（四）项决定中止调查的，在该情形消除后，也可以恢复调查。

第二十八条 应申请人的请求，商务部可以终止调查程序，除非认为终止调查程序不符合公共利益。

第二十九条 出现以下情形之一的，商务部应当终止调查并发布公告：

（一）被调查国（地区）政府已经取消或者调整被调查的措施或者做法；

（二）被调查国（地区）政府已经向我国提供适当的贸易补偿；

（三）被调查国（地区）政府已经履行经济贸易条约或者协定的义务。

第三十条 出现下列情况之一的，商务部可以终止调查并发布公告：

（一）申请人在调查中不提供必要的合作；

（二）商务部认为可以终止调查的其他情形。

第三十一条 通过调查，商务部应就被调查的措施或者做法是否构成本规则第三条所称的贸易壁垒作出决定，并发布公告。

第三十二条 贸易壁垒调查应当自立案决定公告之日起 6 个月内结束；

特殊情况下可以延长，但延长期不得超过 3 个月。

第三十三条 如果被调查的措施或者做法被认定构成本规则第三条所称的贸易壁垒，商务部应当视情况采取以下措施：

（一）进行双边磋商；

（二）启动多边争端解决机制；

（三）采取其他适当的措施。

第五章 附 则

第三十四条 依照本规则作出的公告，应当载明重要的情况、事实、理由、依据、结果和结论等内容。

第三十五条 对国外投资壁垒的调查，参照本规则进行。

第三十六条 本规则由商务部负责解释。

第三十七条 本规则自 2005 年 3 月 1 日起施行。

（六）行政复议

商务部行政复议实施办法

第一条 为防止和纠正违法的或者不当的具体行政行为，保护公民、法人和其它组织的合法权益，保障和监督国内外贸易和国际经济合作管理机关依法行使职权，根据《中华人民共和国行政复议法》(以下简称《行政复议法》)，制定本办法。

第二条 商务部依据《行政复议法》及本办法的规定履行行政复议职责。商务部法制工作机构(条约法律司)具体办理商务部的行政复议事项，并履行《行政复议法》第三条规定的职责。

第三条 对下列具体行政行为不服的，可以向商务部申请行政复议：

(一) 商务部的具体行政行为；

(二) 商务部的派出机构依照法律、法规或者规章的规定，以自己的名义作出的具体行政行为；

(三) 法律、法规授权并由商务部直接管理的组织的具体行政行为；

(四) 对省、自治区、直辖市国内外贸易和国际经济合作管理机关的具体行政行为不服的，可以向商务部申请行政复议，也可以向该省、自治区、直辖市人民政府申请行政复议。

第四条 当事人以书面方式申请行政复议的,应当提交行政复议申请书正本一份，并按照被申请人的数目提交副本。复议申请书应当载明下列内容：

(一) 申请人及委托代理人的姓名、职业、住址(法人或者其他组织的名称、地址、法定代表人的姓名)；

(二) 被申请人的名称、地址；

(三) 申请复议的具体要求；

(四) 主要事实和理由(包括知道具体行政行为的时间)；

(五) 提出行政复议申请的日期。

复议申请书应当由申请人或申请人的法定代表人(或其授权委托人)签字并盖章，并附有必要的证据。申请人为自然人的，应当提交居民身份证或其他有效证件的复印件；申请人为法人或其他组织的，应当提交营业执照或其他有效证件的复印件、法定代表人身份证明等。

第五条 同申请行政复议的具体行政行为有利害关系的其他公民、法人或者其他组织要求作为第三人参加行政复议，应当以书面形式提出申请，经商务部审查同意，可以作为第三人参加行政复议。

商务部认为必要时，也可以通知同申请复议的具体行政行为有利害关系的其他公民、法人或者其他组织作为第三人参加行政复议。

第六条 申请人向商务部申请复议的，向商务部法制工作机构办理申请手续。法制工作机构应当在申请书上注明收到日期，并由递交人签字确认；

第七条 商务部法制工作机构收到行政复议申请后，应当在 5 个工作日内按照《行政复议法》的有关规定进行审查，并依法做出是否受理的决定。

除依法决定不予受理或告知申请人应当向其他复议机关申请复议的外，行政复议申请自商务部法制工作机构收到之日起即为受理。

第八条 行政复议申请有下列情形之一的，不予受理，并以书面形式告知申请人：

(一) 申请复议的事项不属于《行政复议法》第六条规定的范围的；

(二) 申请人不具备复议申请主体资格的；

(三) 申请人错列被申请人且拒绝变更的；

(四) 申请复议超过了法定的申请期限且无正当理由的；

(五) 申请人提起行政诉讼，法院已经受理或尚未决定是否受理，又申请行政复议的；

(六) 申请人向其它有管辖权的行政机关申请复议，该复议机关已经依法受理的；

(七) 申请人撤回复议申请，无正当理由再行申请复议的；

(八) 申请人超越复议管辖权限、越级申请的(《行政复议》第二十条规定的情形除外)；

(九) 行政复议申请不具备其他法定要件的。

第九条 商务部法制工作机构应当自行政复议申请受理之日起 7 个工作日内，将行政复议申请书副本或者行政复议申请笔录复印件发送被申请人。被申请人应当自收到申请书副本或者申请笔录复印件之日起 10 日内提出书面答复，并提交当初作出具体行政行为的证据、依据和其他有关材料。

被申请人的书面答复应当载明以下内容：

(一) 被申请人的基本情况(被申请人为商务部的除外)；

(二) 进行答辩的事由，案件的基本过程和情况；

(三) 做出具体行政行为的事实依据和有关证据材料；

(四) 做出具体行政行为所依据的法律、法规、规章和规范性文件的具体条款和内容；

(五) 做出答复的时间。

书面答复应当加盖被申请人单位公章；被申请人为商务部的，加盖作出该具体行政行为的部门的印章。

第十条 被申请人不按照《行政复议法》第二十三条和本办法第十条的规定提出书面答复、提交当初作出具体行政行为的证据、依据和其他有关

材料的，视为该具体行政行为没有证据、依据，决定撤消该具体行政行为。

第十一条 行政复议原则上采取书面审查的方式，如案情复杂、书面审查无法查明案情的，也可以采取听取当事人的意见、实地调查，邀请专门机构进行检验、鉴定等方式。

第十二条 在行政复议过程中，被申请人及其代理人均不得自行向申请人或其他有关组织或者个人收集证据，也不得以做出具体行政行为之后发现的事实或情况作为具体行政行为的事实依据。

第十三条 法制工作机构应当对被申请人做出的具体行政行为进行审查，提出意见，经商务部负责人同意或集体讨论通过后，按照《行政复议法》第二十八条的规定作出行政复议决定。

第十四条 申请人在申请行政复议时一并提出行政赔偿请求的，应当按照《中华人民共和国国家赔偿法》第十二条的规定写明具体的赔偿要求、事实根据和理由。行政复议机关对符合国家赔偿法的有关规定应当给予赔偿的，在决定撤消、变更具体行政行为或者确认具体行政行为违法时，应当同时决定被申请人依法给予赔偿。

第十五条 本办法由商务部负责解释，自 2004 年 7 月 1 日起施行。

四．司法审议

（一）最高人民法院关于审理国际贸易行政案件若干问题的规定

法释[２０００２]２７号

为依法公正及时地审理国际贸易行政案件，根据《中华人民共和国行政诉讼法》（以下简称行政诉讼法）、《中华人民共和国立法法》（以下简称立法法）以及其他有关法律的规定，制定本规定。

第一条 下列案件属于本规定所称国际贸易行政案件：

（一）有关国际货物贸易的行政案件；

（二）有关国际服务贸易的行政案件；

（三）与国际贸易有关的知识产权行政案件；

（四）其他国际贸易行政案件。

第二条 人民法院行政审判庭依法审理国际贸易行政案件。

第三条 自然人、法人或者其他组织认为中华人民共和国具有国家行政职权的机关和组织及其工作人员（以下统称行政机关）有关国际贸易的具体行政行为侵犯其合法权益的，可以依照行政诉讼法以及其他有关法律、法规的规定，向人民法院提起行政诉讼。

第四条 当事人的行为发生在新法生效之前，行政机关在新法生效之后对该行为作出行政处理决定的，当事人可以依照新法的规定提起行政诉讼。

第五条 第一审国际贸易行政案件由具有管辖权的中级以上人民法院管辖。

第六条 人民法院审理国际贸易行政案件，应当依照行政诉讼法，并根据案件具体情况，从以下方面对被诉具体行政行为进行合法性审查：

（一）主要证据是否确实、充分；

（二）适用法律、法规是否正确；

（三）是否违反法定程序；

（四）是否超越职权；

（五）是否滥用职权；

（六）行政处罚是否显失公正；

（七）是否不履行或者拖延履行法定职责。

第七条 根据行政诉讼法第五十二条第一款及立法法第六十三条第一款和第二款规定，人民法院审理国际贸易行政案件，应当依据中华人民共和国法律、行政法规以及地方立法机关在法定立法权限范围内制定的有关或者影响国际贸易的地方性法规。地方性法规适用于本行政区域内发生的国际贸易行政案件。

第八条 根据行政诉讼法第五十三条第一款及立法法第七十一条、第七十二条和第七十三条规定，人民法院审理国际贸易行政案件，参照国务院部门根据法律和国务院的行政法规、决定、命令，在本部门权限范围内制定的有关或者影响国际贸易的部门规章，以及省、自治区，直辖市和省、自治区的人民政府所在地的市、经济特区所在地的市、国务院批准的较大的市的人民政府根据法律、行政法规和地方性法规制定的有关或者影响国际贸易的地方政府规章。

第九条 人民法院审理国际贸易行政案件所适用的法律、行政法规的具体条文存在两种以上的合理解释，其中有一种解释与中华人民共和国缔

结或者参加的国际条约的有关规定相一致的，应当选择与国际条约的有关规定相一致的解释，但中华人民共和国声明保留的条款除外。

第十条 外国人、无国籍人、外国组织在中华人民共和国进行国际贸易行政诉讼，同中华人民共和国公民、组织有同等的诉讼权利和义务，但有行政诉讼法第七十一条第二款规定的情形的，适用对等原则。

第十一条 涉及香港特别行政区、澳门特别行政区和台湾地区当事人的国际贸易行政案件，参照本规定处理。

第十二条 本规定自２００２年１０月１日起施行。

（二）最高人民法院关于审理反倾销行政案件应用法律若干问题的规定

法释[２００２]３５号

为依法公正地审理反倾销行政案件，根据《中华人民共和国行政诉讼法》及其他有关法律的规定，制定本规定。

第一条 人民法院依法受理对下列反倾销行政行为提起的行政诉讼：

（一）有关倾销及倾销幅度、损害及损害程度的终裁决定；

（二）有关是否征收反倾销税的决定以及追溯征收、退税、对新出口经营者征税的决定；

（三）有关保留、修改或者取消反倾销税以及价格承诺的复审决定；

（四）依照法律、行政法规规定可以起诉的其他反倾销行政行为。

第二条 与反倾销行政行为具有法律上利害关系的个人或者组织为利害关系人，可以依照行政诉讼法及其他有关法律、行政法规的规定，向人民法院提起行政诉讼。

前款所称利害关系人，是指向国务院主管部门提出反倾销调查书面申请的申请人，有关出口经营者和进口经营者及其他具有法律上利害关系的自然人、法人或者其他组织。

第三条 反倾销行政案件的被告，应当是作出相应被诉反倾销行政行为的国务院主管部门。

第四条 与被诉反倾销行政行为具有法律上利害关系的其他国务院主管部门，可以作为第三人参加诉讼。

第五条 第一审反倾销行政案件由下列人民法院管辖：

（一）被告所在地高级人民法院指定的中级人民法院；

（二）被告所在地高级人民法院。

第六条 人民法院依照行政诉讼法及其他有关反倾销的法律、行政法规，参照国务院部门规章，对被诉反倾销行政行为的事实问题和法律问题，进行合法性审查。

第七条 被告对其作出的被诉反倾销行政行为负举证责任，应当提供作出反倾销行政行为的证据和所依据的规范性文件。

人民法院依据被告的案卷记录审查被诉反倾销行政行为的合法性。被告在作出被诉反倾销行政行为时没有记入案卷的事实材料，不能作为认定该行为合法的根据。

第八条 原告对其主张的事实有责任提供证据。经人民法院依照法定程序审查，原告提供的证据具有关联性、合法性和真实性的，可以作为定案的根据。

被告在反倾销行政调查程序中依照法定程序要求原告提供证据，原告无正当理由拒不提供、不如实提供或者以其他方式严重妨碍调查，而在诉讼程序中提供的证据，人民法院不予采纳。

第九条 在反倾销行政调查程序中，利害关系人无正当理由拒不提供证据、不如实提供证据或者以其他方式严重妨碍调查的，国务院主管部门根据能够获得的证据得出的事实结论，可以认定为证据充分。

第十条 人民法院审理反倾销行政案件，根据不同情况，分别作出以下判决：

（一）被诉反倾销行政行为证据确凿，适用法律、行政法规正确，符合法定程序的，判决维持；

（二）被诉反倾销行政行为有下列情形之一的，判决撤销或者部分撤销，并可以判决被告重新作出反倾销行政行为：

1.主要证据不足的；

2.适用法律、行政法规错误的；

3.违反法定程序的；

4.超越职权的；

5.滥用职权的。

（三）依照法律或者司法解释规定作出的其他判决。

第十一条 人民法院审理反倾销行政案件，可以参照有关涉外民事诉讼程序的规定。

第十二条 本规定自 2003 年 1 月 1 日起实施。

（三）最高人民法院关于审理反补贴行政案件应用法律若干问题的规定

法释[２００２]３６号

为依法公正地审理反补贴行政案件，根据《中华人民共和国行政诉讼法》及其他有关法律的规定，制定本规定。

第一条 人民法院依法受理对下列反补贴行政行为提起的行政诉讼：

（一）有关补贴及补贴金额、损害及损害程度的终裁决定；

（二）有关是否征收反补贴税以及追溯征收的决定；

（三）有关保留、修改或者取消反补贴税以及承诺的复审决定；

（四）依照法律、行政法规规定可以起诉的其他反补贴行政行为。

第二条 与反补贴行政行为具有法律上利害关系的个人或者组织为利害关系人，可以依照行政诉讼法及其他有关法律、行政法规的规定，向人民法院提起行政诉讼。

前款所称利害关系人，是指向国务院主管机关提出反补贴调查书面申请的申请人，有关出口经营者和进口经营者及其他具有法律上利害关系的自然人、法人或者其他组织。

第三条 反补贴行政案件的被告，应当是作出相应被诉反补贴行政行为的国务院主管部门。

第四条 与被诉反补贴行政行为具有法律上利害关系的其他国务院主管部门，可以作为第三人参加诉讼。

第五条 第一审反补贴行政案件由下列人民法院管辖：

（一）被告所在地高级人民法院指定的中级人民法院；

（二）被告所在地高级人民法院。

第六条 人民法院依照行政诉讼法及其他有关反补贴的法律、行政法规，参照国务院部门规章，对被诉反补贴行政行为的事实问题和法律问题，进行合法性审查。

第七条 被告对其作出的被诉反补贴行政行为负举证责任，应当提供作出反补贴行政行为的证据和所依据的规范性文件。

人民法院依据被告的案卷记录审查被诉反补贴行政行为的合法性。被告在作出被诉反补贴行政行为时没有记入案卷的事实材料，不能作为认定该行为合法的根据。

第八条 原告对其主张的事实有责任提供证据。经人民法院依照法定程序审查，原告提供的证据具有关联性、合法性和真实性的，可以作为定案的根据。

被告在反补贴行政调查程序中依照法定程序要求原告提供证据，原告无正当理由拒不提供、不如实提供或者以其他方式严重妨碍调查，而在诉讼程序中提供的证据，人民法院不予采纳。

第九条 在反补贴行政调查程序中，利害关系人无正当理由拒不提供证据、不如实提供证据或者以其他方式严重妨碍调查的，国务院主管部门根据能够获得的证据得出的事实结论，可以认定为证据充分。

第十条 人民法院审理反补贴行政案件，根据不同情况，分别作出以下判决：

（一）被诉反补贴行政行为证据确凿，适用法律、行政法规正确，符合法定程序的，判决维持；

（二）被诉反补贴行政行为有下列情形之一的，判决撤销或者部分撤销，并可以判决被告重新作出反补贴行政行为：

1.主要证据不足的；

2.适用法律、行政法规错误的；

3.违反法定程序的；

4.超越职权的；

5.滥用职权的。

（三）依照法律或者司法解释规定作出的其他判决。

第十一条 人民法院审理反补贴行政案件，可以参照有关涉外民事诉讼程序的规定。

第十二条 本规定自 2003 年 1 月 1 日起实施。

I. Laws

The Foreign Trade Law of the People's Republic of China

(Adopted at the Seventh Session of the Standing Committee of the Eighth National People's Congress on 12 May 1994; and amended at the Eighth Session of the Standing Committee of the Tenth National People's Congress on 6 April 2004.)

Chapter I General Principles

Article 1 This Law is formulated in order to broaden the opening to the outside world, develop the Foreign Trade, maintain the Foreign Trade order, protect the legitimate rights and interests of Foreign Trade Operators, and promote a healthy development of the socialist market economy.

Article 2 This Law shall apply to the Foreign Trade and the protection of Foreign Trade related intellectual property rights.

Foreign Trade, for the purpose of this Law, means the import and export of goods and import and export of technologies and the international trade in services.

Article 3 The State Council's Competent Foreign Trade authority is in charge, in accordance with this Law, of the administration of the Foreign Trade nationwide.

Article 4 The State implements a uniform Foreign Trade system, encourages

the development of the Foreign Trade, and maintains a fair and free Foreign Trade order.

Article 5 The People's Republic of China will, based on the principles of equality and mutual benefit, promote and develop trade relations with other countries and regions, conclude or accede to agreements on Customs Unions or free trade zones and other regional economic and trade agreements, and join regional economic organizations.

Article 6 The People's Republic of China, in respect of the Foreign Trade, in accordance with international treaties or agreements to which the People's Republic of China is a contracting party or acceding party, grants the other contracting parties or acceding parties the most-favoured-nation treatment, national treatment or other treatments, or on the principles of mutual advantage and reciprocity, grants the other party the most-favoured-nation treatment, national treatment or other treatments.

Article 7 In the event that any country or region applies discriminatory prohibitions, restrictions or other like measures against the People's Republic of China in respect of trade, the People's Republic of China may, depending on actual circumstances, take countermeasures against the aforesaid country or region.

Chapter II Foreign Trade Operators

Article 8 For the purpose of this law, Foreign Trade Operator means a legal person, other organization or an individual that has carried out industrial and commercial registration or other business practicing procedures in accordance with the law, and is engaged in Foreign Trade activities in accordance with this Law and other relevant laws and administrative regulations.

Article 9 Foreign Trade Operators engaged in the import and export of goods

or the import and export of technologies shall register with the State Council's competent Foreign Trade authority or the institutions delegated by it, unless laws, administrative regulations or provisions of the State Council's competent Foreign Trade authority specify that registration is not required. The specific measures for registration will be formulated by the State Council's competent Foreign Trade authority.

If a Foreign Trade Operator fails to register as required in accordance with the regulations, the Customs Administration shall not carry out the procedures of custom declaration, inspection or release for imports or exports of its good.

Article 10 To engage in the international trade in services, this Law and other relevant laws and administrative regulations shall be complied with.

Units engaged in overseas project contracting and those providing labour services abroad shall have corresponding qualifications or competence. Specific measures shall be formulated by the State Council.

Article 11 The State may subject import and export of certain goods to the state trading administration. Such business as subject to the state trading administration shall only be carried out by authorized enterprises, unless the State permits the import and export of a certain quantity of goods subject to the state trading administration to be carried out by non-authorized enterprises.

Catalogue of goods subject to the state trading administration and catalogue of authorized enterprises will be formulated, adjusted and published by the State Council's competent Foreign Trade authority together with other relevant State Council authorities.

If the provisions of the first paragraph of this Article are violated by importing or exporting goods subject to the state trading administration without authorization, the Customs Administration shall not release the goods.

Article 12 A Foreign Trade Operator may, under entrustment, undertake Foreign Trade business on behalf of such others within its business scope.

Article 13 A Foreign Trade Operator shall, in compliance with the provisions issued by the State Council's competent Foreign Trade authority or other relevant State Council authorities in accordance with laws, submit documents and information related to its Foreign Trade activities to the relevant authorities. The relevant authorities shall keep confidentiality of the business secrets for the providers of such documents and information.

Chapter III Import and Export of Goods and Import and Export of Technologies

Article 14 The State permits goods and technologies to be imported and exported freely, unless otherwise provided by laws and administrative regulations.

Article 15 The State Council's competent Foreign Trade authority may, based on import and export monitoring requirements, implement an automatic import and export licensing system on certain goods which are imported and exported freely, and publish the catalogue thereof.

When the consignor or consignee subject to automatic licensing submits an application for an automatic license prior to carrying the Customs declaration procedures for those goods imported or exported under the automatic licensing, the State Council's competent Foreign Trade authority or an institution it delegates, shall grant the license; where the automatic licensing procedure is not carried out, the Customs Administration shall not allow clearance of the goods.

When importing or exporting technologies that belong to free import and export, the contracts concerned shall be registered with the State Council's

competent Foreign Trade authority or the authority delegated by it.

Article 16 The import or export of relevant goods and technologies may be restricted or prohibited by the State based on any of the following reasons:

(1) here is a necessity to restrict or prohibit import or export in order to safeguard national security, social and public interests or public morals;

(2) there is a necessity to restrict or prohibit import or export in order to protect human health or safety, the life or health of animals or plants, or to protect environment;

(3) here is a necessity to restrict or prohibit import or export in order to implement measures relating to the import and export of gold or silver;

(4) there is a necessity to restrict or prohibit export due to shortage in domestic supply or in order to effectively protect domestic resources which are possibly being exhausted;

(5) there is a necessity to restrict export due to limited market capacity of an importing country or region;

(6) there is a necessity to restrict export when severe disturbance in export business order arises;

(7) there is a necessity to restrict import in order to establish or accelerate the establishment of specific domestic industries;

(8) there is a necessity to restrict import of agricultural, animal husbandry or fishery products in any form;

(9) there is a necessity to restrict import in order to maintain the State's international financial position and the balance of international payments;

(10) There is a necessity to restrict or prohibit other imports or exports in

accordance with the provisions of laws and administrative regulations;

(11) There is a necessity to restrict or prohibit other imports or exports in accordance with the provisions of international treaties or agreements concluded or acceded to by the People's Republic of China.

Article 17 The State may take any necessary measure to safeguard national security on the import and export of goods and technologies relating to fissionable and fusionable materials or the materials from which they are derived, and with respect to the import and export of arms, ammunition or other military materials.

The State may take any necessary measure on the import and export of goods and technologies in time of war or for the maintenance of international peace and security.

Article 18 The State Council's competent Foreign Trade authority, together with other relevant State Council authorities, in accordance with the provisions of Article 16 and 17 of this Law, formulates, adjusts and publishes the lists of goods and technologies that are restricted or prohibited for import or export.

With the approval of the State Council and within the scope of Article 16 and 17, the State Council's competent Foreign Trade authority may independently or together with other relevant State Council authorities decide provisionally to restrict or prohibit the import or export of specific goods or technologies not in the list mentioned in the preceding paragraph.

Article 19 The State implements quotas, licenses or other administrative measures on goods that are restricted for import or export and implements licenses on technologies that are restricted for import or export.

Goods or technologies subject to quotas or licenses shall, in accordance with provisions of the State Council, be imported or exported only when permitted

by the State Council's competent Foreign Trade authority, either independently or in collaboration with other relevant State Council authorities.

The State may impose tariff quotas on certain imported goods.

Article 20 Import and export quotas and tariff quotas will be allocated by the State Council's competent Foreign Trade authority or other relevant State Council authorities within their respective scopes of responsibility and on the basis of the principles of transparency, fairness, impartiality and efficiency. Specific measures will be formulated by the State Council.

Article 21 The State implements a uniform merchandise conformity assessment system, and certifies, inspects and quarantines the import and export merchandise in accordance with relevant laws and administrative regulations.

Article 22 The State applies rules of origin to import and export goods. Specific measures will be formulated by the State Council.

Article 23 Where cultural relics, wild animals and plants and products made therefrom are restricted or prohibited for import or export by other laws and administrative regulations, the provisions of such laws and administrative regulations shall apply.

Chapter IV International Trade in Services

Article 24 With respect to international trade in services, the People's Republic of China, pursuant to its commitments under international treaties or agreements to which the People's Republic of China is a contracting party or an acceding party, grants market access and national treatment to other contracting parties or acceding parties in such treaties or agreements.

Article 25 The State Council's competent Foreign Trade authority and other

relevant State Council authorities are responsible for the administration of international trade in services in accordance with this Law and other relevant laws and administrative regulations.

Article 26 The State may restrict or prohibit the relevant international trade in services based on any of the following reasons:

(1) there is a necessity for a restriction or prohibition in order to safeguard national security, social and public interest or public morals;

(2) there is a necessity for a restriction or prohibition in order to protect human health or safety, the life or health of animals or plants or to protect environment;

(3) there is a necessity for a restriction in order to establish or accelerate the establishment of specific domestic service industries;

(4) there is a necessity for a restriction in order to guarantee the balance of international foreign exchange payments;

(5) there are necessities for other restrictions or prohibitions in accordance with laws and administrative regulations;

(6) there are necessities for other restrictions or prohibitions in accordance with the provisions of international treaties or agreements concluded or acceded to by the People's Republic of China.

Article 27 The State may take any necessary measure to safeguard national security against the international trade in services relating to military affairs, fissionable and fusionable materials or the materials from which they are derived.

The State may take any necessary measure against international trade in services in time of war or for the maintenance of international peace and

security.

Article 28 The State Council's competent Foreign Trade authority, together with other relevant State Council authorities in accordance with the provisions of Article 26, 27 of this Law and other relevant laws and administrative regulations, formulates, adjusts and publishes lists of market access for international trade in services.

Chapter V Protection of Foreign Trade-relatedIntellectual Property Rights

Article 29 The State protects Foreign Trade-related intellectual property rights according to relevant laws and administrative regulations on intellectual property rights.

Where imported goods infringe intellectual property rights and harm the Foreign Trade order, the State Council's competent Foreign Trade authority may take measures that include prohibiting importation of relevant goods produced or sold by the infringers within a certain period of time.

Article 30 Where the intellectual property right holder conducts any of the practices that include preventing the licensee from challenging the validity of the intellectual property rights in licensing contracts, coercive package licensing or providing exclusive grantback conditions in licensing contracts, and thereby harms the Foreign Trade order, the State Council's competent Foreign Trade authority may take necessary measures to eliminate such harm.

Article 31 Where other countries or regions failed to accord national treatment to legal persons, other organizations or individuals from the People's Republic of China with regard to the protection of intellectual property rights, or failed to provide full and effective protection with regard to intellectual property rights for goods, technologies or services originating from the People's Republic of China, the State Council's competent Foreign Trade

authority may, according to this Law and other relevant laws or administrative regulations, and in compliance with the international treaties or agreements the People's Republic of China concluded or acceded to, take necessary measures in respect of the trade with that country or region.

Chapter VI Foreign Trade Order

Article 32 Monopoly practices carried out in Foreign Trade activities that violate the relevant anti-trust laws or administrative regulations are not allowed.

Monopoly practices carried out in Foreign Trade activities that harm the fair competition of the market, shall be dealt with according to the relevant anti-trust laws and administrative regulations.

Where the illegal practices referred to in the above paragraphs exist, and harm the Foreign Trade order, the State Council's competent Foreign Trade authority may take necessary measures to eliminate the harm.

Article 33 The practices of unfair competition in Foreign Trade activities such as selling commodities at unreasonably low prices, colluding with one another in a bid, false advertising, or commercial bribery etc. are not allowed.

The practices of unfair competition in Foreign Trade activities shall be dealt with according to the laws and administrative regulations of anti-unfair competition.

Where the illegal practices referred to in the above paragraphs harm the Foreign Trade order, the State Council's competent Foreign Trade authority may take measures that include prohibiting the import and export of relevant goods or technologies of that operator to eliminate the harm.

Article 34 In Foreign Trade activities, the following acts are prohibited:

(1) the forgery or alteration of marks of origin on import and export goods; the forgery, alteration, purchase or sale of certificates of origin for import and export goods, import or export licenses, certificates of quota for import and export, or other kinds of certificates for import and export;

(2) fraudulently obtaining for refunded tax on exports;

(3) smuggling;

(4) circumventing the authentication, inspection or quarantine specified by laws or administrative regulations;

(5) other activities in violation of the provisions of laws and administrative regulations.

Article 35 In Foreign Trade activities, the Foreign Trade Operators shall abide by the requirements of foreign exchange regulations of the State.

Article 36 The State Council's competent Foreign Trade authority may publish cases which violate this Law and harm the Foreign Trade order.

Chapter VII Foreign Trade Investigation

Article 37 In order to maintain Foreign Trade order, the State Council's competent Foreign Trade authority may conduct, either by itself or together with other relevant State Council authorities, investigation with regard to the following matters in accordance with the provisions of laws and administrative regulations:

(1) impact of the import and export of goods, the import and export of technologies or international trade in services on the domestic industries and their competitiveness;

(2) trade barriers of relevant countries or regions;

(3) matters that require investigation in order to determine whether trade remedy measures as anti-dumping, countervailing, or safeguard measures etc. should be taken;

(4) acts circumventing Foreign Trade remedies;

(5) matters concerning the security interests of the State with respect to Foreign Trade;

(6) matters that require investigation for implementing Article 7, paragraph 2 of Article 29, Article 30, Article 31, paragraph 3 of Article 32, paragraph 3 of Article 33 of this Law;

(7) other matters affecting the Foreign Trade order that require investigation.

Article 38 An announcement will be published by the State Council's competent Foreign Trade authority to initiate any Foreign Trade investigation.

A Foreign Trade investigation may be conducted by such means as written questionnaire, hearing, on-site investigation, investigation through entrustment, etc.

The State Council's competent Foreign Trade authority shall give report or make decisions, and publish announcements in accordance with the investigation results.

Article 39 Relevant units and individuals shall provide cooperation and assistance during the Foreign Trade investigation.

When conducting Foreign Trade investigations, the State Council's competent Foreign Trade authority, other relevant State Council authorities and their staffs shall be obliged to keep confidentiality of all the State secrets and business secrets which they have learned.

Chapter VIII Foreign Trade Remedies

Article 40 The State may take appropriate Foreign Trade remedies in accordance with the results of Foreign Trade investigations.

Article 41 Where products from other countries or regions are dumped into China's market at less than normal values, causing or threatening to cause material injury to the established domestic industries, or materially impeding the establishment of the domestic industries, the State may take anti-dumping measures to eliminate or mitigate such injury, threat of injury or impediment.

Article 42 Where products of other countries or regions are exported to a third country at less than normal values, causing or threatening to cause material injury to the established domestic industries, or materially impeding the establishment of the domestic industries, the State Council's competent Foreign Trade authority may, upon applications by the domestic industries, negotiate with the government of the third country, and require the latter to take appropriate measures.

Article 43 Where the imports are benefited directly or indirectly from specific subsidies granted in any kind by the exporting countries or regions, causing or threatening to cause material injury to the established domestic industries, or materially impeding the establishment of the domestic industries, the State may take countervailing measures to eliminate or mitigate such injury, threat of injury or impediment.

Article 44 Where the imports are increased in such quantities that cause or threaten to cause serious injury to the domestic industries producing like or directly competitive products, the State may take necessary safeguard measures to eliminate or mitigate such injury or threat of injury, and provide necessary support to the domestic industries.

Article 45 Where services provided by the service providers of other countries or regions to China are increased in such quantities that cause or threaten to cause injury to the domestic industries providing like or directly competitive services, the State may take necessary remedies to eliminate or mitigate that injury or threat of injury.

Article 46 Where an import restriction by a third country results in a dramatic increase of certain products entering China's market, causing or threatening to cause injury to the established domestic industries, or impeding the establishment of the domestic industries, the State may take necessary remedies to restrict the import of such products.

Article 47 Where a country or region that has concluded economic and trade treaties or agreements with the People's Republic of China or has acceded to such treaties or agreements together with the People's Republic of China fails to abide by the provisions of such treaties or agreements, causing the loss of or damage to the rights and interests of the People's Republic of China under such treaties or agreements, or impeding the realization of the objectives of such treaties or agreements, the Government of the People's Republic of China shall have the right to require the government of the relevant country or region to take appropriate compensatory measures, and may in accordance with relevant treaties or agreements, suspend or terminate the performance of its relevant obligations under such treaties or agreements.

Article 48 The State Council's competent Foreign Trade authority will proceed with bilateral or multilateral consultations, negotiations and settlement of disputes regarding Foreign Trade in accordance with this Law and other relevant laws and regulations.

Article 49 The State Council's competent Foreign Trade authority and other relevant State Council's authorities shall establish early warning and

emergency response mechanism for the import and export of goods, the import and export of technologies and international trade in services, so as to cope with any contingencies and unusual circumstances that may occur in the course of Foreign Trade and thus maintain the security of national economy.

Article 50 The State may take necessary anti-circumvention measures against the circumvention of the Foreign Trade remedies provided by this Law.

Chapter IX Promotion of Foreign Trade

Article 51 The State formulates Foreign Trade development strategies, establishes and improves the mechanism for promotion of Foreign Trade.

Article 52 Based on the requirements for the development of Foreign Trade, the State will establish and improve financial institutions for Foreign Trade, and establish Foreign Trade development funds and risk funds.

Article 53 The State will develop Foreign Trade by ways of import and export credits, export credit insurance, export tax refunds and other promotion measures.

Article 54 The State will establish a public Foreign Trade information service system to provide information services to Foreign Trade Operators and others of the public.

Article 55 The State will take measures to encourage Foreign Trade Operators to explore international markets and to develop Foreign Trade through various means such as investing abroad, contracting overseas projects and conducting labour cooperation in foreign countries etc.

Article 56 Foreign Trade Operators may establish and join relevant associations or chambers of commerce in accordance with the law.

Such associations or chambers of commerce shall observe the laws and

administrative regulations in accordance with its articles of association, provide its members with such services as production, marketing, information and training, perform the function of harmonizing and self-discipline, submit applications for Foreign Trade remedies in accordance with the law, maintain the interests of its members and industry, convey to relevant government authorities any proposals raised by its members on Foreign Trade, and conduct Foreign Trade promotion activities.

Article 57 The international trade promotion organizations of China shall, in accordance with its articles of association, develop foreign contact, sponsor exhibitions, provide information and advisory services and engage in other Foreign Trade promotion activities.

Article 58 The State will support and promote the development of Foreign Trade conducted by small and medium-sized enterprises.

Article 59 The State will support and promote the development of Foreign Trade in national autonomous regions and economically underdeveloped areas.

Chapter X Legal Liability

Article 60 Where the provision under Article 11 of this Law is violated by conducting importation or exportation of goods which are subject to the state trading administration without authorization, the State Council's competent Foreign Trade authority or the State Council's other relevant authorities may impose a fine of not more than RMB 50,000; where the circumstances are serious, the aforesaid authorities may, within three years from the date on which the administrative penalty decision takes effect, refuse to accept the application of the violator to engage in the import and export of goods subject to the state trading administration, or revoke the authorization granted such party to engage in the import and export of other goods subject to the state trading administration.

Article 61 Those who import or export goods that are prohibited for import or export, or import or export goods that are restricted for import or export without permission, shall be disposed of or punished by the Customs Administration in accordance with the provisions in relevant laws or administrative regulations; where criminal offences are constituted, criminal liability shall be prosecuted in accordance with the law.

Those who import or export technologies that are prohibited for import or export, or import or export technologies that are restricted for import or export without permission, shall be disposed of or punished in accordance with the provisions in relevant laws or administrative regulations; where there are no such provisions in relevant laws or administrative regulations, the State Council's competent Foreign Trade authority will order correction, confiscate unlawful income, and impose a fine of more than one time and less than five times of the unlawful income; where there is no unlawful income or the unlawful income is less than RMB10,000, a fine of more than RMB10,000 and less than RMB50,000 shall be imposed; where criminal offences are constituted, criminal liability shall be prosecuted in accordance with the law.

From the date on which the administrative penalty decision takes effect or the criminal prosecution judgment takes effect as stipulated in the two aforesaid paragraphs, the State Council's competent Foreign Trade authority or other relevant State Council authorities may, for a period of three years, refuse the application of the violator for any importing or exporting quota or license, or prohibit the violator from conducting any importation and exportation of relevant goods or technologies for a period of more than one year and less than three years.

Article 62 Where any international trade in services that is prohibited is engaged in, or where any international trade in services that is restricted is engaged in without permission, punishment shall be imposed in accordance

with relevant laws or administrative regulations; where there are no such provisions in the relevant laws or administrative regulations, the State Council's competent Foreign Trade authority will order correction, confiscate unlawful income, and impose a fine of more than one time and less than five times of the unlawful income; where there is no unlawful income or the unlawful income is less than RMB10,000, a fine of more than RMB10,000 and less than RMB50,000 shall be imposed; where criminal offences are constituted, criminal liability shall be prosecuted in accordance with the law.

The State Council's competent Foreign Trade authority may, from the date on which the administrative penalty decision takes effect or the criminal prosecution judgment takes effect, prohibit the violator from conducting any relevant international trade in services for a period of more than one year and less than three years.

Article 63 Where the provisions under Article 34 of this Law are violated, punishment shall be imposed in accordance with the provisions in relevant laws and administrative regulations; where criminal offences are constituted, criminal liability shall be prosecuted in accordance with the law.

The State Council's competent Foreign Trade authority may, from the date on which the administrative penalty decision takes effect or the criminal prosecution judgment takes effect, prohibit the violator from conducting any relevant foreign trade activities for a period of more than one year and less than three years.

Article 64 Where a violator is prohibited from conducting any relevant Foreign Trade activities in accordance with the provisions under Articles from 61 to 63, during the prohibition period, the Customs Administration will not carry out any customs declaration and inspection or release procedures for the relevant importing or exporting goods of such violator based on the prohibition

decision made by the State Council's competent Foreign Trade authority, and the foreign exchange authorities or the designated banks of foreign exchange shall not proceed with any relevant settlement or sale of foreign exchange.

Article 65 If the working staff of the authorities in charge of administration of Foreign Trade according to this Law is derelict in its duty, conducts malpractice or abuses of its authority, where a criminal offence is constituted, criminal liability shall be prosecuted pursuant to the law; where a criminal offence is not constituted, administrative penalty sanctions shall be imposed in accordance with the law.

If the working staff of the authorities in charge of administration of Foreign Trade according to this Law extorts property from others using the privileges of his position or illegally accepts others property to seek advantages for them in return, where a criminal offence is constituted, criminal liability shall be prosecuted pursuant to the law; where a criminal offence is not constituted, administrative penalty sanctions shall be imposed in accordance with the law.

Article 66 Any party engaged in Foreign Trade activities who is not satisfied with the specific administrative action taken by the authorities in charge of administration of Foreign Trade according to this Law, may apply for an administrative review pursuant to the law or bring an administrative suit before the people's court.

Chapter XI Supplementary Provisions

Article 67 Where laws or administrative regulations provide otherwise concerning the administration of Foreign Trade of military substances or fissionable or fusionable materials or materials from which such materials are derived, or concerning the administration of import or export of any cultural products, such laws or administration regulations shall prevail.

Article 68 The State will adopt flexible measures, grant preferential treatment and facilities to the trade between its border regions and the border regions of adjacent countries as well as to the trade between border residents. Specific measures shall be formulated by the State Council.

Article 69 This Law shall not apply in the separate customs territories of the People's Republic of China.

Article 70 This Law shall enter into effect on 1 July 2004.

II. Regulations

（I）Regulation of the People's Republic of China on the Administration of the Import and Export of Goods

Chapter I General Provisions

Article 1 The present Regulation has been enacted according to the relevant provisions of the Foreign Trade Law of the People's Republic of China (hereinafter referred to as the Foreign Trade Law) for the purpose of standardizing the administration of the import and export of goods, maintaining the order of import and export of goods and promoting the healthy development of foreign trade.

Article 2 The present Regulation shall be observed in the importation of goods to within the customs boundary of the People's Republic of China or exportation of goods to beyond the customs boundary of the People's Republic of China.

Article 3 The state exercises uniform administration over the import and export of goods.

Article 4 The state allows the free importation and exportation of goods and maintains the fairness and orderliness of the import and export of goods

according to law. Unless it is clearly provided in laws or administrative regulations to forbid or restrict the import or export of goods, no entity or individual may establish or maintain prohibitive or restrictive measures over the import or export of goods.

Article 5 The People's Republic of China grants the most-favored-nation treatment or national treatment to other contracting parties or member states to the international treaties or pacts that it has concluded or acceded to, or grants the most-favored-nation treatment or national treatment to its counterparts according to the principle of mutual benefit and reciprocity.

Article 6 Any country or region that takes discriminatory prohibitive or restrictive measures or other similar measures against the People's Republic of China in terms of the import or export of goods, it may, according to the specific situations, take corresponding measures against such country or region.

Article 7 The department of the State Council in charge of foreign trade and economic cooperation (hereinafter referred to as the foreign trade department of the State Council) takes charge of the import and export of goods within the whole country according to the provisions of the Foreign Trade Law and the present Regulation. The relevant departments of the State Council shall, on the basis of the functions and duties as determined by the State Council, be responsible for the administration of the import and export of goods according to the provisions of the present Regulation.

Chapter II Administration of Import of Goods

Section I Goods Prohibited from Importation

Article 8 In any of the circumstances as provided in Article 17 of the Foreign Trade Law, the goods concerned shall be prohibited from importation. If there

are relevant provisions in other laws or regulations on prohibiting the importation of goods, such provisions shall be abided by. The list of goods prohibited from importation shall be formulated, adjusted and promulgated by 1/9 the foreign trade department of the State Council in collaboration with other relevant departments of the State Council.

Article 9 No goods that are prohibited from importation may be imported.

Section II Goods Limited in Importation

Article 10 In any of the circumstances as provided in Clauses 1, 4, 5, 6, and 7 of Article 16 of the Foreign Trade Law, the goods concerned shall be limited in importation. Where there are provisions in other laws or regulations on limiting the importation of goods, such provisions shall be abided by. The list of goods limited in importation shall be formulated, adjusted and promulgated by the foreign trade department of the State Council in collaboration with other relevant departments of the State Council. The list of goods limited in importation shall be promulgated at least 21 days prior to the implementation thereof; where the circumstances are urgent, it shall be promulgated at no later than the day of implementation.

Article 11 Where there are quantitative limits of the state on the goods limited in importation, the goods shall be subject to the administration of quotas, and other goods limited in importation shall be subject to the administration of licenses. When importing the goods subject to the administration of quotas in customs tariffs, the provisions of Section IV of the present Chapter shall be followed.

Article 12 The goods limited in importation that are under the administration of quotas shall be subject to the administration of the foreign trade department of the State Council and the relevant economic administrative departments of the State Council (hereinafter referred to as administrative

departments of import quotas) on the basis of the functions and duties as provided by the State Council.

Article 13 For the goods limited in importation that are under the administration of quotas, the administrative departments of import quotas shall promulgate the total amount of import quotas for the next year at no later than July 31 of each year. An applicant of quotas shall apply to the administrative departments of import quotas for the next year between August 1 and 31 of each year. The administrative departments of import quotas shall allocate the quotas for the next year to the quota applicants before October 31 of each year. The administrative departments of import quotas may, where it is necessary, make adjustments to the total amount of the year and promulgate it at 21 days prior to its implementation.

Article 14 The quotas may be allocated according to the principle of uniform handling of all applications.

Article 15 Where the quotas are allocated according to the principle of uniform handling of all applications, the administrative departments of import quotas shall decide whether to grant quotas or not within 60 days prior to the prescribed deadline for filing applications.

Article 16 When allocating quotas, the administrative departments of import quotas shall take the following elements into consideration: 1. the performances of the applicant in import; 2. whether the quotas in the past have been fully used; 3. the productive capacity, management scale and the sales of the applicant; 4. the applications filed by new import business operators; 5. the quantity of quotas applied; 6. other elements that need to be considered.

Article 17 An import business operator shall present the quotas certificate issued by the administrative departments of import quotas to the customs offices for handling the formalities of customs declaration and examination.

The relevant economic administrative departments of the State Council shall report such information as the total amount of quotas of the year, the plans of allocation, the issuance of quota certificates, etc to the foreign trade department of the State Council for archivist purposes.

Article 18 A holder of quotas who has not used up its quotas for the year shall return the unused 2/9 quotas to the administrative departments of import quotas prior to September 1 of the current year. In case it fails to return the unused quotas and fails to use them up by the end of the current year, the administrative departments of import quotas may make corresponding deductions to the quotas of the holder for the next year.

Article 19 For the goods limited in importation that are subject to the administration of licenses, the import business operators shall file applications to the foreign trade department of the State Council or relevant departments of the State Council (hereinafter referred to as the administrative departments of import licenses). The administrative departments of import licenses shall decide whether to grant a license or not within 30 days after receiving the application. The import business operators shall present the import license issued by the administrative departments of import quotas to the customs office for handling the formalities of customs declaration and examination. The term "import license" as mentioned in the preceding paragraph shall refer to the various kinds of certificates and documents that are of import nature as provided in laws and administrative regulations.

Article 20 The administrative departments of import quotas and the administrative departments of export licenses shall, on the basis of the provisions of the present Regulation, formulate specific measures of administration so as to clarify the qualifications of the applicant, the departments for accepting applications, the principles and procedures of inspections, etc. and shall promulgate the measures prior to their

implementation. The department for accepting applications shall, as a general rule, be one department. The documents requested by the administrative departments of import quotas and the administrative departments of import licenses for submission shall be limited to those documents and materials that are necessary for effecting the administration and the departments may not refuse to accept the applications under the pretext of trifle, immaterial mistakes or errors.

Section III Goods Subject to Free Importation

Article 21 The goods subject to free importation shall not be limited.

Article 22 The foreign trade department of the State Council and the relevant economic administrative departments of the State Council may, on the basis of the demand for monitoring the importation of goods, exercise automatic import license administration over some of the goods subject to free importation according to the functions and duties determined by the State Council. The list of goods that are under automatic import license administration shall be promulgated at no later than 21 days prior to its implementation.

Article 23 The import of goods that are under automatic import license administration shall be allowed.

Article 24 When importing the goods that are under automatic import license administration, the import business operators shall, prior to handling the formalities of customs declaration, file an application to the foreign trade department of the State Council or the relevant economic administrative departments of the State Council for automatic import licenses. The foreign trade department of the State Council or the relevant economic administrative departments of the State Council shall issue automatic import licenses immediately after receiving the applications; if the circumstances are special, the time space shall no longer than 10 days. The import business operators

shall present the automatic import license issued by the foreign trade department of the State Council or the relevant economic administrative departments of the State Council to the customs offices for handling the formalities of customs declaration.

Section IV Goods under the Administration of Tariff Quotas

Article 25 The list of goods that are under the administration of tariff quotas shall be formulated, adjusted and promulgated by the foreign trade department of the State Council in collaboration with the relevant economic administrative departments of the State Council.

Article 26 For the goods imported within the tariff quotas, the tariffs shall be levied according to the rates within the quotas; for the goods imported beyond the tariff quotas, the tariffs shall be levied 3/9 according to the rates beyond the quotas.

Article 27 The administrative departments of import quotas shall publicize the total amount of quotas for the next year between September 15 and October 14 of each year. An applicant for quotas shall file its applications to the administrative departments of import quotas between October 15 and October 30 of each year.

Article 28 The tariff quotas may be allocated according to the principle of uniform handling of all applications.

Article 29 Where the tariff quotas are allocated according to the principle of uniform handling of all applications, the administrative department of import quotas shall decide whether to grant quotas or not before December 31 of each year.

Article 30 The import business operators shall present its certificate of tariff quotas issued by the administrative departments of import tariff quotas to the

customs offices for handling the formalities of customs declaration and examination of the goods within the tariff quotas. The relevant economic administrative departments of the State Council shall submit in a time way such information as the total amount of tariff quotas for the year, the plans of allocation and the issuance of certificates of tariff quotas, etc. to the foreign trade department of the State Council for archivist purposes.

Article 31 A holder of tariff quotas who has not used up its quotas for the year shall return the unused quotas to the administrative departments of import quotas prior to September 15 of the current year. In case it fails to return the unused quotas and fails to use them up by the end of the current year, the administrative departments of import quotas may make corresponding deductions to the quotas of the holder for the next year.

Article 32 The administrative departments of import quotas shall, on the basis of the provisions of the present Regulation, formulate specific measures of administration so as to clarify the qualifications of the applicant, the departments for accepting applications, the principles and procedures of inspections, etc. and shall promulgate the measures prior to their implementation.

The department for accepting applications shall, as a general rule, be one department.

The documents requested by the administrative departments of import quotas for submission shall be limited to those documents and materials that are necessary for effecting the administration and the departments may not refuse to accept the applications under the pretext of trifle, immaterial mistakes or errors.

Chapter III Administration of the Export of Goods

Section I Goods Prohibited from Exportation

Article 33 In any of the circumstances as provided in Article 17 of the Foreign Trade Law, the goods concerned shall be prohibited from exportation. If there are relevant provisions in other laws or regulations on prohibiting the importation of goods, such provisions shall be abided by. The list of goods prohibited from exportation shall be formulated, adjusted and promulgated by the foreign trade department of the State Council in collaboration with other relevant departments of the State Council.

Article 34 No goods that are prohibited from exportation may be exported.

Section II Goods Limited in Exportation

Article 35 In any of the circumstances as provided in Clauses 1, 2, 3, and 7 of Article 16 of the Foreign Trade Law, the goods concerned shall be limited in exportation. Where there are provisions in other laws or regulations on limiting the exportation of goods, such provisions shall be abided by.

The list of goods limited in exportation shall be formulated, adjusted and promulgated by the foreign trade department of the State Council in collaboration with other relevant departments of the State Council.

The list of goods limited in exportation shall be promulgated at least 21 days prior to the implementation thereof; where the circumstances are urgent, it shall be promulgated at no later than 4/9 the day of implementation.

Article 36 Where there are quantitative limits of the state on the goods limited in exportation, the goods shall be subject to the administration of quotas, and other goods limited in importation shall be subject to the administration of licenses.

Article 37 The goods limited in exportation that are under the administration of quotas shall be subject to the administration of the foreign trade department

of the State Council and the relevant economic administrative departments of the State Council (hereinafter referred to as administrative departments of export quotas) on the basis of the functions and duties as provided by the State Council.

Article 38 For the goods limited in exportation that are under the administration of quotas, the administrative departments of export quotas shall promulgate the total amount of export quotas for the next year at no later than October 31 of each year.

An applicant of quotas shall apply to the administrative departments of export quotas for the next year between November 1 and 15 of each year.

The administrative departments of export quotas shall allocate the quotas for the next year to the quota applicants before December 15 of each year.

Article 39 The quotas may be allocated directly or by way of invitation for bids.

Article 40 The administrative departments of export quotas shall decide whether to grant quotas within 30 days after receiving the applications and at no later than December 15 of the current year.

Article 41 The export business operators shall present the certificate of quotas issued by the administrative department of export quotas to the customs offices for handling the formalities of customs declaration and examination.

The relevant economic administrative departments of the State Council shall submit such information as the total amount of quotas for the year, the plans for allocation and the issuance of certificates of quotas, etc. to the foreign trade department of the State Council for archivist purposes.

Article 42 A holder of quotas who has not used up its quotas for the year

shall return the unused quotas to the administrative departments of export quotas prior to October 31 of the current year. In case it fails to return the unused quotas and fails to use them up by the end of the current year, the administrative departments of export quotas may make corresponding deductions to the quotas of the holder for the next year.

Article 43 For the goods limited in exportation that are subject to the administration of licenses, the export business operators shall file applications to the foreign trade department of the State Council or relevant departments of the State Council (hereinafter referred to as the administrative departments of export licenses). The administrative departments of export licenses shall decide whether to grant a license or not within 30 days after receiving the application.

The export business operators shall present the export license issued by the administrative departments of export quotas to the customs office for handling the formalities of customs declaration and examination.

The term "export license" as mentioned in the preceding paragraph shall refer to the various kinds of certificates and documents that are of export nature as provided in laws and administrative regulations.

Article 44 The administrative departments of export quotas and the administrative departments of export licenses shall, on the basis of the provisions of the present Regulation, formulate specific measures of administration so as to clarify the qualifications of the applicant, the departments for accepting applications, the principles and procedures of inspections, etc. and shall promulgate the measures prior to their implementation.

The department for accepting applications shall, as a general rule, be one department.

The documents requested by the administrative departments of export quotas and the administrative departments of export licenses for submission shall be limited to those documents and materials that are necessary for effecting the administration and the departments may not refuse to accept the applications under the pretext of trifle, immaterial mistakes or errors.

Chapter IV State-run Trade and Designated Administration

Article 45 The state may administer the import and export of some goods by way of state-run trade.

The list of goods for import and export under the state-run trade administration shall be formulated, adjusted and promulgated by the foreign trade department of the State Council in collaboration with other relevant economic administrative departments of the State Council.

Article 46 The foreign trade department of the State Council and other relevant economic administrative departments of the State Council shall determine and publicize the list of state-run trade enterprises according to the functions and duties as determined by the State Council.

Article 47 For the goods that are subject to the state-run trade administration, the state may allow non-state-run trade enterprises to import and export some of the goods.

Article 48 The state-run trade enterprises shall provide to the foreign trade department of the State Council on the semi-annual basis such information as the prices for buying or selling the goods subject to the state-run trade administration, etc.

Article 49 The foreign trade department of the State Council may, upon the demand for maintaining the management order of import and export, exercise designated management over some of the goods during certain periods.

The list of goods subject to designated management shall be formulated, adjusted and promulgated by the State Council.

Article 50 The specific standard and procedures for determining the enterprises to engage in designated management shall be promulgated by the foreign trade department of the State Council before implementation.

The list of enterprises to engage in designated management shall be publicized by the foreign trade department of the State Council.

Article 51 Unless provided in Article 47 of the present Regulation, the enterprises or other organizations that have not been included in the list of state-run trade enterprises and enterprises to engage in designated management may not engage in the import or export of goods that are subject to state-run trade administration and designated management.

Article 52 The state-run trade enterprises and the enterprises to engage in designated management shall carry out their business activities under normal commercial conditions, and may not choose provider according to non-commercial considerations, nor may they reject the entrustment of other enterprises or organizations on the basis of non-commercial considerations.

Chapter V Monitoring of Import and Export and Provisional Measures

Article 53 The foreign trade department of the State Council shall be responsible for the monitoring and appraisal of the import and export of goods, shall report regularly to the State Council about the import and export of goods, and give suggestions.

Article 54 In order to maintain the international balance of payments equilibrium including the occurrence of serious international unbalance of payments or the threat of serious unbalance of payments, or to maintain a level of foreign exchange reserves that is suitable for carrying out the plans of

economic development, the state may take provisional restrictive measures with regard to the value or quantity of the goods to be imported.

Article 55 In order to establish or quicken up the establishment of a certain domestic industry, the state may, in case this target cannot be achieved through the incumbent measures, take provisional measures for restricting or prohibiting the import of goods.

Article 56 To take any of the following measures, the state may, when it is necessary, take provisional measures to restrict the import of any form of agricultural products or aquatic products:

(1) Taking restrictive measures over the domestic production or sale of the products that are of the same kind or that directly compete with each other;

(2) Clearing up, by way of subsidizing consumptions, the domestic superfluous products that are of the same kinds or that directly compete with each other;

(3) Limiting the yield of animal products whose production is completely or mainly dependent upon the import of the agricultural products or aquatic products.

Article 57 In any of the following circumstance, the foreign trade department of the State Council may take provisional measures to restrict or prohibit the export of certain goods: 6/9

(1) It is necessary to restrict or prohibit the export due to the occurrence of abnormalities such as serious natural disasters;

(2) It is necessary to restrict the export of goods due to serious disorder of export management;

(3) It is necessary to restrict or prohibit the export of goods as pursuant to the

provisions of Articles 16 and 17 of the Foreign Trade Law.

Article 58 In case provisional measures are to be taken for restricting or prohibiting the export of goods, the foreign trade department of the State Council shall make public announcements prior to the implementation of the measures.

Chapter VI Promotion of Foreign Trade

Article 59 The state takes the measures like export credit insurance, export credit, export rebates, establishing funds for developing foreign trade, etc. to promote the development of foreign trade.

Article 60 The state takes effective measures to promote the technological innovation and technological development of the enterprises and to enhance the international competition capacity of the enterprises.

Article 61 The state helps the enterprises to exploit the international market by way of providing information consultation services.

Article 62 The business operators that import or export goods may establish or join chambers of commerce for import and export so as to achieve self-disciplinary and coordination.

Article 63 The state encourages the enterprises to actively respond to the discriminatory antidumping, anti-subsidy or safeguard measures of foreign countries so as to protect the lawful rights and interests of the enterprises in normal trade.

Chapter VII Legal Liabilities

Article 64 Any one who imports or exports goods that are prohibited from import or export or imports or exports goods that are limited in importation or exportation without approval or permission shall be subject to investigation for

assuming penal liabilities according to the provisions of the Criminal Law on smuggling; if the activities are not serious enough for assuming criminal liabilities, they shall be punished according to the relevant provisions of the Customs Law, and the foreign trade department of the State Council may revoke their business licenses for foreign trade at the same time.

Article 65 Any one who imports or exports goods that are limited in importation or exportation beyond the scopes approved or permitted shall be subject to investigation for assuming penal liabilities according to the provisions of the Criminal Law concerning the crime of smuggling or the crime of illegal management; if the activities are not serious enough for assuming criminal liabilities, they shall be punished according to the relevant provisions of the Customs Law, and the foreign trade department of the State Council may suspend or even revoke their business licenses for foreign trade at the same time.

Article 66 Any one who counterfeits or alters or buys or sells certificates of import or export quotas, approval documents, licenses or automatic import licenses shall be subject to assume criminal liabilities according to the Criminal Law concerning the crime of illegal management or the crime of counterfeiting, altering, buying or selling official documents, certificates, seals of state organs; if the activities are not serious enough for assuming criminal liabilities, they shall be punished according to the relevant provisions of the Customs Law, and the foreign trade department of the State Council may revoke their business licenses for foreign trade at the same time.

Article 67 In case any business operator of import or export who obtains quotas for the import or export of goods, certification documents or automatic import licenses by deception or other unfair means, the quotas for the import or export of goods, certification documents or automatic import licenses shall be taken back, and the foreign trade department of the State Council may

suspend or even revoke their business licenses for foreign trade at the same time.

Article 68 In case any one who violates the provisions of Article 51 of the present Regulation by engaging in the import or export of goods that are subject to state-run trade administration or designated management and thus disrupts the market order and if the circumstances are serious, it shall be subject to assume criminal liabilities according to the provisions of the Criminal Law on the crime of illegal management; if the activities are not serious enough for assuming criminal liabilities, they shall be given administrative punishments by the administrations for industry and commerce, and the foreign trade department of the State Council may suspend or even revoke their business licenses for foreign trade at the same time.

Article 69 Any state-run trade enterprise or designated management enterprise violates the provisions of Articles 48 and 52 of the present Regulation shall be given a warning by the foreign trade department of the State Council; if the circumstances are serious, its qualifications as a state-run trade enterprise or designated management enterprise may be suspended or even revoked by the foreign trade department of the State Council.

Article 70 Any staff member engaged in the administration of the import or export or goods that, in the process of performing its functions of administration over the import or export of goods, abuses its power or neglects its duties or accepts or exacts property or money from other people by taking advantage of its functions shall be subject to assuming criminal liabilities according to the provisions of the Criminal Law concerning the crime of abusing power or the crime of neglecting duties or the crime of accepting bribes or other crimes; if the activities are not serious enough for assuming criminal liabilities, it shall be given administrative punishments.

Chapter VIII Supplementary Provisions

Article 71 Any one who refuses to accept the decision of the administrative organs as provided in the present Regulation on the granting of quotas, tariff quotas, licenses or automatic licenses or to accept the decision on determining the qualifications of state-run trade enterprises or designated management enterprises or accept the decision on administrative punishments may plead for administrative reconsideration or institute a lawsuit at the people's court.

Article 72 The provisions of the present Regulation shall not foreclose the taking of measures such as tariff, inspection and quarantine, security, environmental protection, intellectual property, etc. according to the provisions of laws or administrative regulations over the goods imported or exported.

Article 73 The export of goods under export control like nucleus products, nucleus-related civil products, monitored chemical products, military products, etc shall handled according to the provisions of relevant administrative regulations.

Article 74 Where it is necessary to take antidumping, anti-subsidy or safeguard measures against imported goods, the provisions of the Foreign Trade Law and other relevant laws and administrative regulations shall be observed.

Article 75 Where there are otherwise provisions in laws or regulations concerning the import or export of goods of special economic zones like the bonded areas or export processing areas, etc, such provisions shall be observed.

Article 76 The foreign trade department of the State Council shall be responsible for the bilateral or multilateral discussions and negotiations concerning the import and export of relevant goods, and shall be responsible

for settling trade disputes.

Article 77 The present Regulation shall take effect as of January 1, 2002. The Interim Regulation of the People's Republic of China on the License of Import of Goods which was promulgated by the State Council on January 10, 1984, the Interim Measures on the Administration of Export Commodities which was ratified by the State Council on December 21, 1992 and issued by the MOFTEC on December 29, 1992, the Interim Measures on the Administration of the Import of Machinery and Electrical Equipments which was jointly issued by the State Economic and Trade Commission and the MOFTEC on October 7, 1993, the Interim Measures on the Administration of Quotas for the Import of General Commodities which was ratified by the State Council on December 22, 1993 and jointly issued by the State Development Planning Commission and the MOFTEC on December 29, 1993, and the Interim Measures on the Administration and Management of Imported Goods which was ratified by the State Council on June 13, 1994 and jointly issued by the MOFTEC and the State Development Planning Commission on July 19, 1994 shall be concurrently repealed.

（II）Anti-Dumping Regulations of The People's Republic of China

(Promulgated by Decree No. 328 of the State Council of the People's Republic of China on 26 November 2001, and revised in accordance with the Decision of the State Council on Amending the Regulations of the People's Republic of China on Anti-Dumping promulgated on 31 March 2004)

Chapter I General Provisions

Article 1 These Regulations are formulated in accordance with the relevant provisions of the Foreign Trade Law of the People's Republic of China for the purpose of maintaining the foreign trade order and fair competition.

Article 2 Where an import is dumped into the market of the People's Republic of China and causes material injury or threat of material injury to an established domestic industry, or causes material retardation to the establishment of such an industry, an anti-dumping investigation shall be initiated and anti-dumping measures applied in accordance with the provisions of these Regulations.

Chapter II Dumping and Injury

Article 3 The term "dumping" means that an import is introduced, in the ordinary course of trade, into the market of the People's Republic of China at an export price less than its normal value.

The Ministry of Commerce shall be responsible for the investigation and determination of dumping.

Article 4 The normal value of an import shall be determined according to the

following methods by distinguishing among different cases:

(1) where there is a comparable price for the like product of the import in the ordinary course of trade in the domestic market of the exporting country (region), such comparable price shall be the normal value; or

(2) where there are no sales of the like product of the import in the ordinary course of trade in the domestic market of the exporting country (region), or the price and the quantity of such sales do not permit a fair comparison, the normal value shall be the comparable price of the like product when exported to an appropriate third country (region) or the cost of production of the like product in the country (region) of origin plus a reasonable amount for expenses and for profits.

In cases where a product is not imported directly from the country (region) of origin, its normal value shall be determined in accordance with Item 1 of the preceding paragraph. However, under the circumstances that the product is merely transhipped through the exporting country (region), or such product is not produced in the exporting country (region), or there is no comparable price for such product in the exporting country (region), the price of the like product in the country (region) of origin may be considered as the normal value.

Article 5 The export price of an import shall be determined according to the following methods by distinguishing among different cases:

(1) the price actually paid or payable for the import shall be the export price;

(2) or in cases where there is no export price for the import or the price is unreliable, the export price may be constructed on the basis of the price at which the import is first resold to an independent buyer; however, if the import is not resold to an independent buyer, or not resold in the condition as imported, the export price may be determined on the basis of a

reasonable price constructed by the Ministry of Commerce.

Article 6 The margin of dumping is the amount by which the export price of an import is less than its normal value.

A fair and reasonable comparison shall be made between the export price and the normal value of an import, with due allowance for factors which affect price comparability.

The margin of dumping shall be established on the basis of a comparison of a weighted average normal value with a weighted average of prices of all comparable export transactions or by a comparison of the normal value and export price on a transaction-to-transaction basis.

Where the export prices differ significantly among different purchasers, regions or time periods, and therefore it is difficult to make comparison through the methods prescribed in the preceding paragraph, a comparison may be made between a weighted average normal value with prices of individual export transactions.

Article 7 The term "injury" means material injury or threat of material injury caused by dumping to an established domestic industry or material retardation of the establishment of such a domestic industry.

The Ministry of Commerce shall be responsible for the investigation and determination of injury. The anti-dumping investigation of injury to a domestic industry involving agricultural products shall be conducted by the Ministry of Commerce jointly with the Ministry of Agriculture.

Article 8 The following factors shall be examined in the determination of injury caused by dumping to a domestic industry:

(1) whether the volume of dumped imports, including the volume of dumped

imports either in absolute terms or relative to the production or consumption of a like domestic product, has been increasing significantly, or the possibility of a significant increase in dumped imports;

(2) the effects of dumped imports on prices, including the price undercutting by the dumped imports, or the significant suppressing or depressing effects on the price of a like domestic product, etc.;

(3) the consequent impact of the dumped imports on the relevant economic factors and indices of the domestic industry;

(4) the production capacity or export capacity of the exporting country (region) or the country (region) of origin, and inventories of the product under investigation; and

(5) other factors that may cause or have caused injury to a domestic industry.

The determination of a threat of material injury shall be based on facts and not merely on allegation, conjecture or remote possibility.

When determining the injury caused by dumping to a domestic industry, the determination shall be based on positive evidence, and the injuries caused by factors other than dumping must not be attributed to dumping.

Article 9 Where the dumped imports from more than one country (region) simultaneously satisfy the following requirements, the effects of such dumped imports on a domestic industry may be cumulatively assessed:

(1) the margin of dumping established in relation to the dumped imports from each country (region) is no less than two per cent, and the volume of such imports from each country is not negligible; and

(2) a cumulative assessment of the effects of the dumped imports is appropriate in light of the conditions of competition between the dumped

imports and the conditions of competition between the dumped imports and the like domestic product.

The volume of dumped imports shall normally be regarded as negligible if the volume of dumped imports from a particular country (region) is found to account for less than three per cent of the total imports of the like product, unless countries (regions) which individually account for less than three per cent of the total imports of the like product collectively account for more than seven per cent of its total imports of the like product.

Article 10 The effect of the dumped imports shall be assessed in relation to the separate identification of the domestic production of the like product. If such separate identification of that production is not possible, the effect of the dumped imports shall be assessed by the examination of the production of the narrowest group or range of products, including the like domestic product.

Article 11 The term "domestic industry" means the domestic producers as a whole of the like products within the People's Republic of China or those of them whose collective output of the products constitutes a major proportion of the total production of those products, except that when domestic producers are related to the exporters or importers or are themselves importers of the dumped imports or like products.

In exceptional circumstances, the producers within a regional domestic market may be regarded as a separate industry if the producers within such market sell all or almost all of the like products in that market, and the demand in that market is not to any substantial degree supplied by domestic producers of the like products located in other domestic regions.

Article 12 The term "like product" means the product that is identical to the dumped import, or in the absence of such a product, another product that has characteristics closely resembling the dumped import.

Chapter III Anti-Dumping Investigation

Article 13 Any domestic industry, natural person, legal person or relevant organization on behalf of the domestic industry (hereinafter collectively referred to as "the applicant") may make a written application to the Ministry of Commerce for an anti-dumping investigation in accordance with the provisions of these Regulations.

Article 14 The application shall contain the following information:

(1) the name, address and relevant information of the applicant;

(2) a complete description of the import in question, including the name of the product, the exporting country (region) or the country (region) of origin concerned, the identity of known exporters or producers, information on the price of the product destined for consumption in the domestic market of the exporting country (region) or the country (region) of origin, and information on the export price, etc.;

(3) a description of the volume and value of domestic production of the like product;

(4) the effect of the volume and price of the import in question on the domestic industry; and

(5) other information that the applicant considers as necessary to provide.

Article 15 The application shall be supported by the following evidence:

(1) existence of dumping of the import in question;

(2) injury caused to a domestic industry; and

(3) existence of a causal link between the dumping and the injury.

Article 16 The Ministry of Commerce shall, within 60 days from the date of receipt of the application and relevant evidence submitted by the applicant, examine whether the application is made by or on behalf of the domestic industry, the contents of the application and the evidence attached thereto, and shall decide whether or not to initiate an investigation.

Prior to the decision to initiate an investigation, the government of the exporting country (region) concerned shall be notified.

Article 17 An application shall be considered to have been made by or on behalf of the domestic industry and an anti-dumping investigation may be initiated, if the application is supported by those domestic producers whose collective output constitutes more than 50 per cent of the total production of the like product produced by that portion of the domestic industry expressing either support for or opposition to the application. However, no investigation shall be initiated when the output of those domestic producers expressly supporting the application accounts for less than 25 per cent of total production of the like domestic product.

Article 18 If, in special circumstances, the Ministry of Commerce decides to initiate an investigation without having received any written application for an anti-dumping investigation, it shall proceed only if it has sufficient evidence of the existence of dumping, injury and causal link to justify the initiation of an investigation.

Article 19 The Ministry of Commerce shall publish the decision to initiate an investigation and notify the applicant, the known exporters and importers, the government of the exporting country (region) and other interested organizations and parties (hereinafter collectively referred to as “the interested parties”).

As soon as the decision to initiate an investigation is published, the Ministry of

Commerce shall provide the full text of the written application to the known exporters and the government of the exporting country (region).

Article 20 The Ministry of Commerce may conduct investigation and collect information from the interested parties by, among others, sending questionnaires, using samples, holding public hearings and making on-the-spot verification.

The Ministry of Commerce shall provide opportunities for the interested parties concerned to present their views and supporting arguments.

The Ministry of Commerce may send its staff members to the country (region) concerned to carry out investigation if it deems necessary to do so, unless the country (region) concerned object to such an investigation.

Article 21 The interested parties shall provide authentic information and relevant documentation to the Ministry of Commerce in the process of the investigation. In the event that any interested party does not provide authentic information and relevant documentation, or does not provide necessary information within a reasonable time limit, or significantly impedes the investigation in other ways, the Ministry of Commerce may make determinations on the basis of the facts already known and the best information available.

Article 22 The interested parties may request the Ministry of Commerce to treat the information they provide as confidential if they consider that any disclosure of such information would create significantly adverse effects.

The Ministry of Commerce shall treat the information provided by the interested parties as confidential if it considers that the request for confidentiality is justifiable, and shall require the interested parties to provide non-confidential summaries thereof.

No confidential information shall be disclosed without permission of the interested party providing it.

Article 23 The Ministry of Commerce shall allow the applicant and the interested parties to have access to the information relevant to the investigation, provided that the information is not treated as confidential.

Article 24 The Ministry of Commerce shall, on the basis of its findings, make a preliminary determination on dumping and injury, as well as on whether there exists a causal link between dumping and injury. The preliminary determination shall be published by the Ministry of Commerce.

Article 25 In cases where a preliminary determination on dumping, injury and the causal link between the two is affirmative, the Ministry of Commerce shall conduct further investigations on dumping, the margin of dumping, the injury and its degree, and, on the basis of its findings, make a final determination. The final determination shall be published by the Ministry of Commerce.

Before the final determination is made, the Ministry of Commerce shall inform all known interested parties of the essential facts on which the final determination is based.

Article 26 An anti-dumping investigation shall be concluded within 12 months from the date of publication of the decision to initiate the investigation, and such period may be extended in special circumstances, but in no case shall the extension be more than six months.

Article 27 In any one of the following circumstances, an anti-dumping investigation shall be terminated and such termination shall be published by the Ministry of Commerce:

(1) the application has been withdrawn by the applicant;

(2) there is no sufficient evidence of the existence of dumping, injury or causal link between the two;

(3) the margin of dumping is less than two per cent;

(4) the actual or potential volume of the dumped imports or the injury is negligible; or

(5) other circumstances that the Ministry of Commerce considers not appropriate to continue the anti-dumping investigation.

If the product under investigation imported from one or some of the countries (regions) falls under one of the circumstances set forth in Item 2, 3, or 4 of the preceding paragraph, the anti-dumping investigation on such product shall be terminated.

Chapter V Anti-Dumping Measures

Section 1Provisional Anti-Dumping Measures

Article 28 The following provisional anti-dumping measures may be applied if the preliminary determination establishes the existence of dumping and the injury caused by dumping to a domestic industry:

(1) imposition of provisional anti-dumping duties; or

(2) provision of deposits, bonds or other forms of security.

The amount of provisional anti-dumping duties, deposits, bonds or other forms of security provided shall not exceed the margin of dumping established in the preliminary determination.

Article 29 The proposal imposing provisional anti-dumping duties shall be put forward by the Ministry of Commerce, and, on the basis of such a proposal, the State Council Tariff Commission shall make a decision which shall be

published by the Ministry of Commerce. The decision on the provision of deposits, bonds or other forms of security shall be made and published by the Ministry of Commerce. The Customs shall implement the decision from the effective date set forth in the public notice.

Article 30 The period for applying provisional anti-dumping measures shall not exceed four months from the effective date set forth in the public notice regarding the decision on provisional anti-dumping measures, and, in special circumstances, may be extended to nine months.

No provisional anti-dumping measures shall be applied within 60 days from the date of publication of the decision to initiate the investigation.

Section 2 Price Undertakings

Article 31 During the period of an anti-dumping investigation, an exporter of the dumped imports may offer price undertakings to the Ministry of Commerce to revise its prices or to cease exporting at dumped prices.

The Ministry of Commerce may suggest price undertakings to an exporter.

The Ministry of Commerce shall not force an exporter to enter into price undertakings.

Article 32 The fact that an exporter does not offer price undertakings, or does not accept any suggestion regarding price undertakings, shall in no way prejudice the investigation and determination of an anti-dumping case. The Ministry of Commerce has the right to determine that a threat of injury is more likely to be realized if the exporter continues dumping the imports.

Article 33 If considering that a price undertaking made by an exporter is acceptable and in the public interest, the Ministry of Commerce may decide to suspend or terminate the anti-dumping investigation without applying

provisional anti-dumping measures or imposing anti-dumping duties. The decision to suspend or terminate the anti-dumping investigation shall be published by the Ministry of Commerce.

If the Ministry of Commerce does not accept a price undertaking, it shall provide the reasons therefore to the exporter concerned.

Price undertakings shall not be sought or accepted unless the Ministry of Commerce has made a preliminary affirmative determination of dumping and injury caused by such dumping.

Article 34 After the suspension or termination of an investigation according to the provisions of Paragraph 1, Article 33 of these Regulations, the Ministry of Commerce shall continue the investigation of dumping and injury upon the request of an exporter, or may do so if it deems necessary.

On the basis of the findings of the investigation prescribed in the preceding paragraph, the price undertaking shall automatically lapse if a negative determination is made on dumping or injury, or shall remain in force if the determination on both dumping and injury is affirmative.

Article 35 The Ministry of Commerce may require the exporter from whom an undertaking has been accepted to provide periodically information and documentation relevant to the fulfilment of such an undertaking, and make verification on such information and documentation.

Article 36 In cases where an exporter violates his price undertaking, the Ministry of Commerce may decide to resume the anti-dumping investigation immediately in accordance with the provisions of these Regulations, or, on the basis of the best information available, decide to apply provisional anti-dumping measures and levy anti-dumping duties retroactively on the products imported not more than 90 days prior to the application of such

provisional anti-dumping measures, except the products imported before the violation of the price undertaking.

Section 3Anti-Dumping Duties

Article 37 If a final determination establishes the existence of dumping and injury caused by dumping to a domestic industry, an anti-dumping duty may be imposed. Imposition and collection of anti-dumping duties shall be in the public interest.

Article 38 The proposal imposing an anti-dumping duty shall be put forward by the Ministry of Commerce, and, on the basis of such a proposal, the State Council Tariff Commission shall make a decision which shall be published by the Ministry of Commerce. The Customs shall implement the decision from the effective date set forth in the public notice.

Article 39 Anti-dumping duties shall be imposed on products imported after the date of publication of the final determination, with the exception of the circumstances set forth in Articles 36, 43 and 44 of these Regulations.

Article 40 Anti-dumping duties shall be paid by importers of dumped imports.

Article 41 Anti-dumping duties shall be determined separately on the basis of the margin of dumping established for each individual exporter. Where it is necessary to impose an anti-dumping duty on the dumped imports of an exporter who has not been included in the ongoing examination, an anti-dumping duty applicable to the exporter shall be determined in a reasonable way.

Article 42 No anti-dumping duties shall be levied in excess of the margin of dumping established in a final determination.

Article 43 In cases where a final determination establishes the existence of a material injury, and provisional anti-dumping measures have been applied prior to the final determination, anti-dumping duties may be levied retroactively for the period during which provisional anti-dumping measures have been applied.

In cases where a final determination establishes the existence of a threat of material injury, and provisional anti-dumping measures have been applied in the situation that the absence of such provisional anti-dumping measures would have led to a determination of material injury, anti-dumping duties may be levied retroactively for the period during which provisional anti-dumping measures have been applied.

If the definitive anti-dumping duty determined in a final determination is higher than the provisional anti-dumping duty paid or payable, or the amount estimated for the purpose of the security, the difference shall not be collected; if the definitive duty is lower than the provisional anti-dumping duty paid or payable, or the amount estimated for the purpose of the security, the difference shall be refunded or the duty recalculated, as the case may be.

Article 44 When the following two circumstances exist simultaneously, an anti-dumping duty may be retroactively levied on products imported not more than 90 days prior to the date of application of provisional anti-dumping measures, except the products imported before the initiation of the investigation:

(1) there is a dumping history of the dumped imports causing injury to the domestic industry, or the importer of the dumped imports was, or should have been, aware that the exporters practice dumping and that such dumping would cause injury to the domestic industry; and

(2) the dumped imports were massively imported in a short period of time and

were likely to seriously undermine the remedial effect of the definitive anti-dumping duty to be applied.

The Ministry of Commerce may, after initiating an investigation, take such measures as import registration of the import concerned as may be necessary in order for a retroactive collection of an anti-dumping duty if it has sufficient evidence to prove the simultaneous existence of the two circumstances set forth in the preceding paragraph.

Article 45 Where a final determination decides not to levy an anti-dumping duty, or does not decide a retroactive levy of an anti-dumping duty, the provisional anti-dumping duty collected and any deposits made during the period of the application of provisional anti-dumping measures shall be refunded, and any bonds or other forms of security released.

Article 46 If an importer of dumped imports can provide evidence to prove that the anti-dumping duty already paid is higher than the margin of dumping, he can apply to the Ministry of Commerce for duty refund. The Ministry of Commerce shall, upon examination and verification of the application, make a proposal to the State Council Tariff Commission, who shall make a decision to refund the extra duty on the basis of the proposal made by the Ministry of Commerce, and the Customs shall implement the decision.

Article 47 After an import is subject to an anti-dumping duty, new exporters who have not exported the product in question to the People's Republic of China within the period of investigation, may apply to the Ministry of Commerce for a separate determination of the margin of dumping, provided that they can show that they are not related to any of the exporters who are subject to the anti-dumping duty. The Ministry of Commerce shall promptly carry out a review and make a final determination. No anti-dumping duties shall be levied on imports from such exporters or producers while the review is

being carried out, but measures may be taken as provided in Item 2, Paragraph 1 of Article 28 of these Regulations.

Chapter V Duration and Review of Anti-Dumping Duties and Price Undertakings

Article 48 The period for the levy of an anti-dumping duty and fulfilment of a price undertaking shall not exceed five years. However, the period for the levy of the anti-dumping duty may be extended as appropriate if, as a result of the review, it is determined that the termination of the anti-dumping duty would be likely to lead to continuation or recurrence of dumping and injury.

Article 49 After an anti-dumping duty has taken effect, the Ministry of Commerce may decide on justifiable grounds to review the need for the continued imposition of the anti-dumping duty; such a review may also be conducted, provided that a reasonable period of time has elapsed, upon request by the interested parties and on the basis of examination of the relevant evidence submitted by the interested parties.

After a price undertaking has taken effect, the Ministry of Commerce may, on justifiable grounds, decide to review the need for the continued fulfilment of the price undertaking; such a review may also be conducted, provided that a reasonable period of time has elapsed, upon request by the interested parties and on the basis of examination of the relevant evidence submitted by the interested parties.

Article 50 On the basis of the findings of a review, the Ministry of Commerce shall, in accordance with the provisions of these Regulations, make a proposal on the retention, revision, or termination of an anti-dumping duty, and the State Council Tariff Commission shall, in light of the proposal made by the Ministry of Commerce, make a decision which shall be published by the Ministry of Commerce. Meanwhile, the Ministry of Commerce may make a

decision on the retention, revision, or termination of a price undertaking and publish such decision in accordance with the provisions of these Regulations.

Article 51 The review proceedings shall be conducted with reference to the relevant provisions of these Regulations on anti-dumping investigation.

Any review shall be concluded within 12 months from the date of decision of initiation of such a review.

Article 52 During the period of review, the review proceedings shall not impede the application of anti-dumping measures.

Chapter VI Supplementary Provisions

Article 53 Where any party is not satisfied with a final determination made under Article 25 of these Regulations, or not satisfied with a decision on whether or not to impose an anti-dumping duty or a decision on retroactive imposition of an anti-dumping duty, reimbursement of an anti-dumping duty or imposition of an anti-dumping duty on new exporters, which is made under Chapter IV of these Regulations, or not satisfied with the review findings made under Chapter V of these Regulations, it may, in accordance with the law, apply for administrative reconsideration or file a lawsuit in the people's court.

Article 54 A public notice issued under these Regulations shall contain, inter alia, important information, facts, reasons, basis, findings and conclusions, etc.

Article 55 The Ministry of Commerce may take appropriate measures to prevent the circumvention of anti-dumping measures.

Article 56 Where any country (region) discriminatorily applies anti-dumping measures on the exports from the People's Republic of China, the People's Republic of China may, on the basis of the actual situations, take corresponding measures against that country (region).

Article 57 The Ministry of Commerce shall be responsible for foreign-related consultation, notification and dispute settlement concerning anti-dumping activities.

Article 58 The Ministry of Commerce may, in accordance with these Regulations, formulate specific implementing measures.

Article 59 These Regulations shall be effective as of 1 January 2002. The provisions on anti-dumping contained in the Regulations of the People's Republic of China on Anti-dumping and Anti-subsidy promulgated by the State Council on 25 March 1997 shall be repealed simultaneously.

（III）Regulations of the People's Republic of China on Countervailing Measures

(Promulgated by Decree No. 329 of the State Council of the People's Republic of China on 26 November 2001, and revised in accordance with the Decision of the State Council on Amending the Regulations of the People's Republic of China on Countervailing Measures promulgated on 31 March 2004)

Chapter I General Provisions

Article 1 These Regulations are formulated in accordance with the relevant provisions of the Foreign Trade Law of the People's Republic of China for the purpose of maintaining the foreign trade order and fair competition.

Article 2 Where an import to which a subsidy is granted causes material injury or threat of material injury to an established domestic industry, or causes material retardation of the establishment of such an industry, a countervailing investigation shall be initiated and countervailing measures applied in accordance with the provisions of these Regulations.

Chapter II Subsidy and Injury

Article 3 The term "subsidy" means a financial contribution or any form of income or price support which is provided by the government or any public body of an exporting country (region) and which will benefit the recipients.

The government or any public body of an exporting country (region) is hereinafter collectively referred to as the government of an exporting country (region).

The term “financial contribution” in Paragraph 1 of this Article shall include:

(1) the government of an exporting country (region) directly provides funds in the form of grants, loans, or equity infusion, etc., or potentially directly transfers funds or liabilities in the form of loan guarantees or otherwise;

(2) the government of an exporting country (region) forgoes or does not collect revenue that is otherwise due;

(3) the government of an exporting country (region) provides goods or services other than general infrastructure, or purchases goods; and

(4) the government of an exporting country (region) carries out the above-mentioned functions by making payments to a funding mechanism, or entrusts or directs a private body to carry out the above-mentioned functions.

Article 4 A subsidy subject to countervailing investigation and countervailing measures under these Regulations must be specific.

A subsidy falling under one of the following circumstances shall be specific:

(1) the subsidy received by certain enterprises or industries explicitly specified by the government of an exporting country (region);

(2) the subsidy received by certain enterprises or industries explicitly provided for in laws and regulations of an exporting country (region);

(3) the subsidy received by enterprises or industries located within a designated specific area;

(4) the subsidy contingent upon export performance, including any of those illustrated in the List of Export Subsidies annexed to these Regulations; or

(5) the subsidy contingent upon the use of domestic over imports.

In determining the specificity of a subsidy, such factors as the number of subsidized enterprises, the amount, proportion, length of time, and form of the subsidy received by enterprises shall also be considered.

Article 5 The Ministry of Commerce shall be responsible for the investigation and determination of a subsidy.

Article 6 The amount of a subsidy to an import shall be calculated according to the following methods by distinguishing among differing cases:

(1) where the subsidy is granted in the form of a grant, the amount of the subsidy shall be calculated on the basis of the actual amount received by an enterprise;

(2) where the subsidy is granted in the form of a loan, the amount of the subsidy shall be calculated on the basis of the difference between the amount of interest an enterprise should pay on a loan in the ordinary commercial loan conditions and the amount of interest the enterprise pays on this loan;

(3) where the subsidy is granted in the form of a loan guarantee, the amount of the subsidy shall be calculated on the basis of the difference between the amount of interest an enterprise should pay on a commercial loan without such guarantee and the amount of interest the enterprise actually pays on a loan guaranteed;

(4) where the subsidy is granted in the form of an equity infusion, the amount of the subsidy shall be calculated on the basis of the actual amount of the capital an enterprise receives;

(5) where the subsidy is granted in the form of the provision of goods or services, the amount of the subsidy shall be calculated on the basis of the difference between the price of the goods or services at normal market

price and the price that an enterprise actually pays;

(6) where the subsidy is granted in the form of purchase of goods, the amount of the subsidy shall be calculated on the basis of the difference between the actual price the government pays and the normal market price of the goods; and

(7) where the subsidy is granted in the form of forgoing or not collecting due revenue, the amount of the subsidy shall be calculated on the basis of the difference between the amount payable under law and the actual amount an enterprise pays.

The amount of subsidies granted in forms other than those enumerated in the preceding paragraph shall be calculated in a fair and reasonable way.

Article 7 The term "injury" means material injury or threat of material injury caused by a subsidy to an established domestic industry or material retardation of the establishment of such a domestic industry.

The Ministry of Commerce shall be responsible for the investigation and determination of injury. The countervailing investigation of injury to a domestic industry involving agricultural products shall be conducted by the Ministry of Commerce jointly with the Ministry of Agriculture.

Article 8 The following factors shall be examined in the determination of injury caused by a subsidy to a domestic industry:

(1) the effects on trade likely to arise from the subsidy;

(2) whether the volume of subsidized imports, including the volume of subsidized imports either in absolute terms or relative to the production or consumption of a like domestic product, has been increasing significantly, or the possibility of a significant increase in subsidized imports;

(3) the effects of subsidized imports on prices, including the price undercutting by the subsidized imports, or the significant suppressing or depressing effects on the price of a like domestic product, etc.;

(4) the consequent impact of the subsidized imports on the relevant economic factors and indices of the domestic industry;

(5) the production capacity or export capacity of the exporting country (region) or the country (region) of origin, and inventories of the product under investigation; and

(6) other factors that may cause or have caused injury to a domestic industry.

The determination of a threat of material injury shall be based on facts and not merely on allegation, conjecture or remote possibility.

When determining the injury caused by a subsidy to a domestic industry, the determination shall be based on positive evidence, and the injuries caused by factors other than subsidy must not be attributed to the subsidy.

Article 9 Where the subsidized imports from more than one country (region) simultaneously satisfy the following requirements, the effects of such subsidized imports on a domestic industry may be cumulatively assessed:

(1) the amount of subsidization established in relation to the subsidized imports from each country (region) is not de minimis, and the volume of such imports from each country is not negligible; and

(2) a cumulative assessment of the effects of the subsidized imports is appropriate in light of the conditions of competition between the subsidized imports and the conditions of competition between the subsidized imports and the like domestic product.

A subsidy is de minimis if the amount of the subsidy is less than one per cent

of the value of a product; however, with respect to the subsidized imports from a developing country (region), the subsidy is de minimis if the amount of the subsidy is less than two per cent of the value of a product.

Article 10 The effect of the subsidized imports shall be assessed in relation to the separate identification of the domestic production of the like product. If such separate identification of that production is not possible, the effect of the subsidized imports shall be assessed by the examination of the production of the narrowest group or range of products, including the like domestic product.

Article 11 The term "domestic industry" means the domestic producers as a whole of the like products within the People's Republic of China or those of them whose collective output of the products constitutes a major proportion of the total production of those products, except that when domestic producers are related to the exporters or importers or are themselves importers of the subsidized products or like products.

In exceptional circumstances, the producers within a regional domestic market may be regarded as a separate industry if the producers within such market sell all or almost all of the like products in that market, and the demand in that market is not to any substantial degree supplied by domestic producers of the like products located in other domestic regions.

Article 12 The term "like product" means the product that is identical to the subsidized import, or in the absence of such a product, another product that has characteristics closely resembling the subsidized import.

Chapter III Countervailing Investigation

Article 13 Any domestic industry, natural person, legal person or relevant organization on behalf of the domestic industry (hereinafter collectively referred to as "the applicant") may make a written application to the Ministry

of Commerce for a countervailing investigation in accordance with the provisions of these Regulations.

Article 14 The application shall contain the following information:

(1) the name, address and relevant information of the applicant;

(2) a complete description of the import in question, including the name of the product, the exporting country (region) or the country (region) of origin concerned, and the identity of known exporters or producers, etc.;

(3) a description of the volume and value of domestic production of the like product;

(4) the effect of the volume and price of the import in question on the domestic industry; and

(5) other information that the applicant considers necessary to provide.

Article 15 The application shall be supported by the following evidence:

(1) existence of a subsidy to the import in question;

(2) injury caused to a domestic industry; and

(3) existence of a causal link between the subsidy and the injury.

Article 16 The Ministry of Commerce shall, within 60 days from the date of receipt of the application and relevant evidence submitted by the applicant, examine whether the application is made by or on behalf of the domestic industry, the contents of the application and the evidence attached thereto, and shall decide whether or not to initiate an investigation. In special circumstances, the examination period may be extended.

Prior to the decision to initiate an investigation, the government of the country

(region) the product of which may be subject to such investigation shall be invited for consultation regarding the subsidy in question.

Article 17 An application shall be considered to have been made by or on behalf of the domestic industry and a countervailing investigation may be initiated, if the application is supported by those domestic producers whose collective output constitutes more than 50 per cent of the total production of the like product produced by that portion of the domestic industry expressing either support for or opposition to the application. However, no investigation shall be initiated when the output of those domestic producers expressly supporting the application accounts for less than 25 per cent of total production of the like domestic product.

Article 18 If, in special circumstances, the Ministry of Commerce decides to initiate an investigation without having received any written application for a countervailing investigation, it shall proceed only if it has sufficient evidence of the existence of a subsidy, injury and causal link to justify the initiation of an investigation.

Article 19 The Ministry of Commerce shall publish the decision to initiate an investigation and notify the applicant, the known exporters, importers and other interested organizations and individuals (hereinafter collectively referred to as "the interested parties"), and the government of the exporting country (region).

As soon as the decision to initiate an investigation is published, the Ministry of Commerce shall provide the full text of the written application to the known exporters and the government of the exporting country (region).

Article 20 The Ministry of Commerce may conduct investigation and collect information from the interested parties by, among others, sending questionnaires, using samples, holding public hearings and making on-the-spot

verification.

The Ministry of Commerce shall provide opportunities for the interested parties and the government of an interested country (region) to present their views and supporting arguments.

The Ministry of Commerce may send its staff members to the country (region) concerned to carry out investigation if it deems necessary to do so, unless the country (region) concerned object to such an investigation.

Article 21 The interested parties and the government of an interested country (region) shall provide authentic information and relevant documentation to the Ministry of Commerce in the process of the investigation. In the event that any interested party or the government of any interested country (region) does not provide authentic information and relevant documentation, or does not provide necessary information within a reasonable time limit, or significantly impedes the investigation in other ways, the Ministry of Commerce may make determinations on the basis of the facts available.

Article 22 The interested parties and the government of an interested country (region) may request the Ministry of Commerce to treat the information they provide as confidential if they consider that any disclosure of such information would create significantly adverse effect.

The Ministry of Commerce shall treat the information provided by the interested parties and the government of the interested country (region) as confidential if it considers that the request for confidentiality is justifiable, and shall require the interested parties and the government of the interested country (region) to provide non-confidential summaries thereof.

No confidential information shall be disclosed without permission of the interested parties and the government of the interested country (region)

providing it.

Article 23 The Ministry of Commerce shall allow the applicant, the interested parties and the government of an interested country (region) to have access to the information relevant to the investigation, provided that the information is not treated as confidential.

Article 24 Throughout the period of an investigation, the government of the country (region) the products of which are the subject of the investigation shall be afforded a reasonable opportunity to continue consultations. The consultations shall not prevent the Ministry of Commerce from conducting investigations and adopting countervailing measures in accordance with the provisions of these Regulations.

Article 25 The Ministry of Commerce shall, on the basis of its findings, make a preliminary determination on subsidization and injury, as well as on whether there exists a causal link between subsidization and injury. The preliminary determination shall be published by the Ministry of Commerce.

Article 26 In cases where a preliminary determination on subsidization, injury and the causal link between the two is affirmative, the Ministry of Commerce shall conduct further investigations on the subsidization and its amount, the injury and its degree, and, on the basis of its findings, make a final determination. The final determination shall be published by the Ministry of Commerce.

Before the final determination is made, the Ministry of Commerce shall inform all known interested parties and the government of the interested country (region) of the essential facts on which the final determination is based.

Article 27 A countervailing investigation shall be concluded within 12 months from the date of publication of the decision to initiate the

investigation, and such period may be extended in special circumstances, but in no case shall the extension be more than six months.

Article 28 In any one of the following circumstances, a countervailing investigation shall be terminated and such termination shall be published by the Ministry of Commerce:

(1) the application has been withdrawn by the applicant;

(2) there is no sufficient evidence of the existence of a subsidy, injury or causal link between them;

(3) the amount of the subsidy is de minimis;

(4) the actual or potential volume of the subsidized imports or the injury is negligible;

(5) an agreement has been reached with the government of the country (region) concerned after consultations, and therefore the countervailing investigation is no longer necessary; or

(6) other circumstances that the Ministry of Commerce considers not appropriate to continue the countervailing investigation.

If the product under investigation imported from one or some of the countries (regions) falls into one of the circumstances set forth in Item (2), (3), (4) or (5) of the preceding paragraph, the countervailing investigation on such product shall be terminated.

Chapter IV Countervailing Measures

Section 1Provisional Measures

Article 29 Provisional countervailing measures may be applied if the preliminary determination establishes the existence of a subsidy and the injury

caused by the subsidy to a domestic industry.

Provisional countervailing measures shall take the form of provisional countervailing duties guaranteed by deposits or bonds.

Article 30 The proposal applying provisional countervailing measures shall be put forward by the Ministry of Commerce, and, on the basis of such a proposal, the State Council Tariff Commission shall make a decision which shall be published by the Ministry of Commerce. The Customs shall implement the decision from the effective date set forth in the public notice.

Article 31 The period for applying provisional countervailing measures shall not exceed four months from the effective date set forth in the public notice regarding the decision on provisional countervailing measures.

No provisional countervailing measures shall be applied within 60 days from the date of publication of the decision to initiate the countervailing investigation.

Section 2Undertakings

Article 32 During the period of a countervailing investigation, if the government of an exporting country (region) proposes an undertaking to eliminate or limit a subsidy or take other relevant measures, or if an exporter proposes an undertaking to revise its prices, the Ministry of Commerce shall give it full consideration.

The Ministry of Commerce may suggest price undertakings to an exporter or the government of the exporting country (region).

The Ministry of Commerce shall not force an exporter to enter into any undertaking.

Article 33 The fact that an exporter or the government of an exporting

country (region) does not offer undertakings, or does not accept any suggestion regarding price undertakings, shall in no way prejudice the investigation and determination of a countervailing case. The Ministry of Commerce has the right to determine that a threat of injury is more likely to be realized if the exporter continues subsidizing the imports.

Article 34 If considering that an undertaking is acceptable and in the public interest, the Ministry of Commerce may decide to suspend or terminate the countervailing investigation without applying provisional countervailing measures or imposing countervailing duties. The decision to suspend or terminate the countervailing investigation shall be published by the Ministry of Commerce.

If the Ministry of Commerce does not accept an undertaking, it shall provide the reasons therefore to the exporter concerned.

Undertakings shall not be sought or accepted unless the Ministry of Commerce has made a preliminary affirmative determination of subsidization and injury caused by such subsidization. In cases where an exporter enters into an undertaking without consent of the government of its own country (region), the Ministry of Commerce shall not seek or accept such an undertaking.

Article 35 After the suspension or termination of an investigation according to the provisions of Paragraph 1, Article 34 of these Regulations, the Ministry of Commerce shall continue the investigation of subsidization and injury upon the request of the government of an exporting country (region), or may do so if it deems necessary.

On the basis of the findings of the investigation, the undertaking shall automatically lapse if a negative determination is made on subsidization or injury, or shall remain in force if the determination on both subsidization and injury is affirmative.

Article 36 The Ministry of Commerce may require the exporter or the government of an exporting country (region) from whom an undertaking has been accepted to provide periodically information and documentation relevant to the fulfilment of such an undertaking, and make verification on such information and documentation.

Article 37 In case of violation of an undertaking, the Ministry of Commerce may decide to resume the countervailing investigation immediately in accordance with the provisions of these Regulations, or, on the basis of the best information available, decide to apply provisional countervailing measures and levy countervailing duties retroactively on products imported not more than 90 days prior to the application of such provisional countervailing measures, except the products imported before the violation of the undertaking.

Section 3Countervailing Duties

Article 38 If the efforts made to complete consultations produce no positive results, and a final determination establishes the existence of subsidy and injury caused by the subsidy to a domestic industry, a countervailing duty may be imposed. Imposition and collection of countervailing duties shall be in the public interest.

Article 39 The proposal imposing a countervailing duty shall be put forward by the Ministry of Commerce, and, on the basis of such a proposal, the State Council Tariff Commission shall make a decision which shall be published by the Ministry of Commerce. The Customs shall implement the decision from the effective date set forth in the public notice.

Article 40 Countervailing duties shall be imposed on products imported after the date of the publication of the final determination, with the exception of circumstances set forth in Articles 37, 44 and 45 of these Regulations.

Article 41 Countervailing duties shall be paid by importers of subsidized imports.

Article 42 Countervailing duties shall be determined separately on the basis of the amount of subsidy each exporter has received. Where it is necessary to impose a countervailing duty on the subsidized imports of an exporter who has not been actually investigated, an expedited review shall be conducted and a countervailing duty applicable to the exporter shall be determined in a reasonable way.

Article 43 No countervailing duties shall be levied in excess of the amount of a subsidy established in a final determination.

Article 44 In cases where a final determination establishes the existence of a material injury, and provisional countervailing measures have been applied prior to the final determination, countervailing duties may be levied retroactively for the period during which provisional countervailing measures have been applied.

In cases where a final determination establishes the existence of a threat of material injury, and provisional countervailing measures have been applied in the situation that the absence of such provisional countervailing measures would have led to a determination of material injury, countervailing duties may be levied retroactively for the period during which provisional countervailing measures have been applied.

If the countervailing duty determined in a final determination is higher than the amount guaranteed by the deposits or bonds, the difference shall not be collected; if the duty is less than the amount guaranteed by the deposits or bonds, the excess amount shall be refunded.

Article 45 When the following three circumstances exist simultaneously, a

countervailing duty may, if necessary, be retroactively levied on products imported not more than 90 days prior to the date of application of provisional countervailing measures:

(1) the subsidized imports increase massively during a short period of time;

(2) such increase has caused injury that is difficult to repair to a domestic industry; and

(3) such products have benefited from the subsidy.

Article 46 Where a final determination decides not to levy a countervailing duty, or does not decide a retroactive levy of a countervailing duty, any deposits made during the period of the application of provisional countervailing measures shall be refunded and any bonds released.

Chapter V Duration and Review of Countervailing Duties and Undertakings

Article 47 The period for the levy of a countervailing duty and fulfilment of an undertaking shall not exceed five years. However, the period for the levy of the countervailing duty may be extended as appropriate if, as a result of review, it is determined that the termination of the countervailing duty would be likely to lead to continuation or recurrence of subsidization and injury.

Article 48 After a countervailing duty has taken effect, the Ministry of Commerce may decide on justifiable grounds to review the need for the continued imposition of the countervailing duty; such a review may also be conducted, provided that a reasonable period of time has elapsed, upon request by the interested parties and on the basis of examination of the relevant evidence submitted by the interested parties.

After an undertaking has taken effect, the Ministry of Commerce may, on

justifiable grounds, decide to review the need for the continued fulfilment of the undertaking; such a review may also be conducted, provided that a reasonable period of time has elapsed, upon request by the interested parties and on the basis of examination of the relevant evidence submitted by the interested parties.

Article 49 On the basis of the findings of a review, the Ministry of Commerce shall, in accordance with the provisions of these Regulations, make a proposal on the retention, revision, or termination of a countervailing duty, and the State Council Tariff Commission shall, in light of the proposal made by the Ministry of Commerce, make a decision which shall be published by the Ministry of Commerce. Meanwhile, the Ministry of Commerce may make a decision on the retention, revision or termination of an undertaking and publish such decision in accordance with the provisions of these Regulations.

Article 50 The review proceedings shall be conducted with reference to the relevant provisions of these Regulations on countervailing investigation.

Any review shall be concluded within 12 months of the date of decision of initiation of such a review.

Article 51 During the period of review, the review proceedings shall not impede the application of countervailing measures.

Chapter VI Supplementary Provisions

Article 52 Where any party is not satisfied with a final determination made under Article 26 of these Regulations, or not satisfied with a decision on whether or not to impose a countervailing duty or a decision on retroactive imposition of a duty, which is made under Chapter IV of these Regulations, or not satisfied with the review findings made under Chapter V of these Regulations, it may, in accordance with the law, apply for administrative

reconsideration or file a lawsuit in the people's court.

Article 53 A public notice issued under these Regulations shall contain, inter alia, important information, facts, reasons, basis, findings and conclusions, etc.

Article 54 The Ministry of Commerce may take appropriate measures to prevent the circumvention of countervailing measures.

Article 55 Where any country (region) discriminatorily applies countervailing measures on the exports from the People's Republic of China, the People's Republic of China may, on the basis of the actual situations, take corresponding measures against that country (region).

Article 56 The Ministry of Commerce shall be responsible for foreign-related consultation, notification and dispute settlement concerning countervailing activities.

Article 57 The Ministry of Commerce may, in accordance with these Regulations, formulate specific implementing measures.

Article 58 These Regulations shall be effective as of 1 January 2002. The provisions on countervailing measures contained in the Regulations of the People's Republic of China on

Anti-dumping and Anti-subsidy promulgated by the State Council on 25 March 1997 shall be repealed simultaneously.

Annex

List of Export Subsidies

The provision of direct subsidies by the government of an exporting country (region) to an enterprise or industry contingent upon export performance.

Foreign currency retention schemes or any similar practices which involve a bonus on exports.

Internal transport or freight charges on exports, provided for or approved by the government of an exporting country (region), on terms more favourable than for domestic goods.

The provision of goods or services by the government of an exporting country (region) either directly or indirectly to the production of exports, on terms more favourable than for provision of like goods or services to the production of domestic goods, except for special circumstances.

The full or partial remission, exemption or deferral of direct taxes or social welfare charges specifically related to exports which have been paid or are payable by enterprises.

The deductions directly related to exports or export performance, over and above those granted in respect to domestic production, in the calculation of the base on which direct taxes are charged.

The remission, exemption or reimbursement, in respect of the production and distribution of exports, of indirect taxes in excess of those levied in respect of the production and distribution of like domestic products.

The remission, exemption, reimbursement or deferral of prior-stage cumulative indirect taxes on goods or services used in the production of exports in excess of the remission, exemption, reimbursement or deferral of like prior-stage cumulative indirect taxes on goods or services used in the production of like domestic product, except for special circumstances.

The remission, exemption or reimbursement of import charges on imported inputs for the production of exports in excess of those levied on such inputs when they are imported, except for special circumstances.

The provision by the government of an exporting country (region) of export credit guarantee or insurance programmes, of insurance or guarantee programmes against increases in the cost of exported products or of exchange risk programmes at premium rates which are inadequate to cover the long-term operating costs and losses of the programmes.

The grant by the government of an exporting country (region) of export credits at rates below those which are actually paid for the employment of such funds, or the payment by it of all or part of the costs incurred by exporters or financial institutions in obtaining credits, in order that that could attain advantages in the field of export credits terms, except for special circumstances.

Any other charges on the public account constituting an export subsidy.

（IV）Regulations of the People's Republic of China on Safeguards

(Promulgated by Decree No. 330 of the State Council of the People's Republic of China on 26 November 2001, and revised in accordance with the Decision of the State Council on Amending the Regulations of the People's Republic of China on Safeguards promulgated on 31 March 2004)

Chapter I General Provisions

Article 1 These Regulations are formulated in accordance with the relevant provisions of the Foreign Trade Law of the People's Republic of China for the purpose of promoting the sound development of foreign trade.

Article 2 When a product is imported in increased quantities and such increase has caused or threatens to cause serious injury (hereinafter collectively referred to as injury, except otherwise indicated) to a domestic industry that produces like or directly competitive products, an investigation shall be initiated and safeguard measures applied in accordance with the provisions of these Regulations.

Chapter II Investigation

Article 3 Any natural person, legal person or other organization related to a domestic industry (hereinafter collectively referred to as the applicant) may, in accordance with the provisions of these Regulations, make a written application to the Ministry of Commerce for applying safeguard measures.

The Ministry of Commerce shall promptly examine the application made by the applicant and decide whether or not to initiate an investigation.

Article 4 If the Ministry of Commerce decides to initiate an investigation without having received any written application for applying safeguard measures, it shall proceed only if it has sufficient evidence of injury to a domestic industry due to the increase in quantity of an import.

Article 5 The Ministry of Commerce shall publish the decision to initiate an investigation.

The Ministry of Commerce shall promptly notify the Committee on Safeguards of the World Trade Organization (hereinafter referred to as "the Committee on Safeguards") of the decision to initiate an investigation.

Article 6 The Ministry of Commerce shall be responsible for the investigation and determination of the increase in quantity of an import and injury caused thereby. The safeguards investigation of injury to a domestic industry involving agricultural products shall be conducted by the Ministry of Commerce jointly with the Ministry of Agriculture.

Article 7 The term "increase in quantity of an import" means an absolute increase in quantity of an import or relative increase compared with domestic production.

Article 8 The following relevant factors shall be examined in the determination of injury to a domestic industry caused by the increase in quantity of an import:

(1) the rate and amount of the increase of the import in absolute and relative terms;

(2) the share of the domestic market taken by the increased import;

(3) the impact of the import on the domestic industry, including the impact on the production, the level of sales, market share, productivity, capacity

utilization, profits and losses, and employment of the domestic industry; and

(4) other factors that may cause or have caused injury to the domestic industry.

The determination of a threat of serious injury shall be based on facts and not merely on allegation, conjecture or remote possibility.

When determining the injury caused by the increase in quantity of an import to a domestic industry, the injuries that are caused by factors other than the increase of imports shall not be attributed to the increase of imports.

Article 9 During the period of an investigation, the Ministry of Commerce shall promptly publish a detailed analysis of the case under investigation and the relevant factors.

Article 10 The term "domestic industry" means the domestic producers as a whole of the like or directly competitive products within the People's Republic of China or those of them whose collective output of the like or directly competitive products constitutes a major proportion of the total domestic production of those products.

Article 11 The Ministry of Commerce shall, on the basis of objective facts and evidence, determine whether or not there exists a causal link between the increased imports of the product concerned and the injury to the domestic industry.

Article 12 The Ministry of Commerce shall provide opportunities for importers, exporters and other interested parties to present their views and supporting arguments.

The investigation may be conducted by means of sending questionnaires, holding public hearings, or by other appropriate means.

Article 13 The Ministry of Commerce may treat the information collected during an investigation as confidential, if the information provider deems it necessary.

If the request for confidentiality is justifiable, the information provided by the information provider shall be treated as confidential, and the information provider shall be required to provide non-confidential summaries thereof.

No confidential information shall be disclosed without permission of the information provider.

Article 14 The explanations to the findings of an investigation on the increase in quantity of imports, injuries and the reasons therefore shall be published by the Ministry of Commerce.

The Ministry of Commerce shall promptly notify the Committee on Safeguards of the findings and the relevant information.

Article 15 The Ministry of Commerce may, on the basis of its findings, make a preliminary determination, or make a final determination directly. The determinations shall be published by the Ministry of Commerce.

Chapter III Safeguard Measures

Article 16 In critical circumstances where there is clear evidence of increase in quantity of an import, and such increase would cause injury to a domestic industry which it would be difficult to remedy without the application of safeguard measures, a preliminary determination may be made and provisional safeguard measures applied.

Provisional safeguard measures shall take the form of tariff increases.

Article 17 The proposal applying provisional safeguard measures shall be put forward by the Ministry of Commerce, and, on the basis of such a proposal, the

State Council Tariff Commission shall make a decision which shall be published by the Ministry of Commerce. The Customs shall implement the decision from the effective date set forth in the public notice.

The Ministry of Commerce shall notify the Committee on Safeguards of the relevant information prior to the application of a provisional safeguard measure.

Article 18 The duration of application of a provisional safeguard measure shall not exceed 200 days from the effective date set forth in the public notice regarding the decision on the provisional safeguard measure.

Article19 Where a final determination establishes the existence of increase in quantity of an import and the injury caused thereby to a domestic industry, safeguard measures may be applied. The application of safeguard measures shall be in the public interest.

Safeguard measures may take the form of tariff increases or quantitative restrictions, etc.

Article20 Where a safeguard measure takes the form of tariff increases, the measure shall be proposed by the Ministry of Commerce, and, on the basis of such a proposal, the State Council Tariff Commission shall make a decision which shall be published by the Ministry of Commerce. Where a safeguard measure takes the form of quantitative restrictions, a decision shall be made and published by the Ministry of Commerce. The Customs shall implement the decision from the effective date set forth in the public notice.

The Ministry of Commerce shall promptly notify the Committee on Safeguards of the decision on the application of a safeguard measure and the related information.

Article 21 Where a quantitative restriction is applied, the quantity of imports

after restriction shall not be less than the average quantity of imports in the last three representative years, unless clear justification is given that a different level of the quantitative restriction is necessary to prevent or remedy serious injury.

Where a quantitative restriction is applied and it is necessary to allocate quantity among exporting countries (regions) or countries (regions) of origin, the Ministry of Commerce may consult with the exporting countries (regions) or countries (regions) of origin concerned in the allocation of quantity.

Article 22 Safeguard measures shall be applied to a product being imported irrespective of its source country (region).

Article 23 Safeguard measures shall be applied to the extent necessary to prevent or remedy serious injury and to facilitate the adjustment of the domestic industry.

Article 24 Prior to the application of a safeguard measure, the Ministry of Commerce shall provide adequate opportunities for consultations with those governments of countries (regions) having substantial interests as the exporters of the products concerned.

Article 25 Where a final determination establishes that no safeguard measures shall be applied, the provisional duty that has been levied shall be refunded.

Chapter IV Duration and Review of Safeguard Measures

Article 26 The period of application of a safeguard measure shall not exceed four years.

The period of application of a safeguard measure may be properly extended if the following conditions are met:

(1) it has been determined in accordance with the procedures set forth in these Regulations that the safeguard measure continues to be necessary to prevent or remedy serious injury;

(2) there is evidence that the domestic industry concerned is undergoing adjustment;

(3) the obligations of foreign-related notification and consultations have been fulfilled; and

(4) the extended safeguard measure is not more restrictive than the initial one.

The total period of application of a safeguard measure and any extension thereof shall not exceed ten years.

Article 27 Where the period of application of a safeguard measure exceeds one year, the measure applied shall be progressively liberalized at regular intervals during the period of application.

Article 28 Where the period of application of a safeguard measure exceeds three years, the Ministry of Commerce shall conduct a mid-term review of the measure during the period of its application.

The substance of the mid-term review shall include, among other things, review of the effect of the safeguard measure on the domestic industry, and the adjustment of the domestic industry.

Article 29 Where a safeguard measure takes the form of tariff increases, the Ministry of Commerce shall, on the basis of the findings of the review, put forward in accordance with the provisions of these Regulations a proposal for the retention, repeal or acceleration of the liberalization of the tariff increases, and in light of such a proposal, the State Council Tariff Commission shall make a decision which shall be published by the Ministry of Commerce; where

a safeguard measure takes the form of quantitative restrictions or other forms, the Ministry of Commerce shall, on the basis of the findings of the review and in accordance with the provisions of these Regulations, make a decision on whether or not to retain, repeal or accelerate the liberalization of the quantitative restrictions and publish the decision.

Article 30 Where a safeguard measure is applied again on the same import, the interval between the current measure and the previous safeguard measure shall not be less than the period of application of the previous safeguard measure, and shall be at least two years.

Notwithstanding the foregoing provision, a safeguard measure with duration of 180 days or less may be applied to the product if the following conditions are met:

(1) at least one year has elapsed since the date of application of a safeguard measure to the import of the said import; and

(2) such a safeguard measure has not been applied on the same product more than twice in the five year period immediately after the date of application of the measure.

Chapter V Supplementary Provisions

Article 31 Where any country (region) discriminatorily applies safeguard measures on the exports from the People's Republic of China, the People's Republic of China may, on the basis of the actual situations, take corresponding measures against that country (region).

Article 32 The Ministry of Commerce shall be responsible for foreign-related consultation, notification and dispute settlement concerning safeguard measures.

Article 33 The Ministry of Commerce may, in accordance with these Regulations, formulate specific implementing measures.

Article 34 These Regulations shall be effective as of 1 January 2002.

III. Administrative Rules

The Notice of the Ministry of Commerce of P.R.China No.30, 2003

The Ministry of Commerce will be established, which is a department of the State Council in charge of domestic and foreign trade and international economic cooperation, according to the State Council Reform Plan which approved by the First Session of the 10th National People's Congress and <The Notice on Institutions Arrangement of the State Council>(guo fa [2003]no.8). On the ground of <Notice of the General Office of State Council about printing and distributing the provisions on the main responsibilities internal organs and staffing requirements of the Ministry of Commerce >, the duty of the former Ministry of Foreign Trade and Economic Cooperation, the duties of domestic trade management, foreign economic coordination, industry injury investigation, important industrial products, organization and implementation plan of import and export of raw materials of the former State Economic and Trade Commission and the duty of organization and implementation plan of import and export of agricultural products of the former State Planning and Development Commssion have been incorporated in the Ministry of Commerce.

The Ministry of Commerce liquidated the departmental rules and regulatory documents which the former Ministry of Foreign Trade Cooperation (including the former Ministry of Foreign Economic Trade), the former State Economic and Trade Commssion(including the former State Economic Commssion), the Ministry(Bureau) of former Domestic Trade, the former State Planning and

Development Commssion issued and now incorporated in the duty of the Ministry of Commerce. After liquidation, there are 362 documents'(as the annex shows) authorities or implementing agencies are the former Ministry of Foreign Trade Cooperation (including the former Ministry of Foreign Economic Trade), the former State Economic and Trade Commssion (including the former State Economic Commssion), the Ministry (Bureau) of Former Domestic Trade and the former State Planning and Development Commssion, but now belong to the duty of the Ministry of Commerce. For the purpose of successfully transition of the administrative duties and related works of the Ministry of Commerce, the former Ministry of Foreign Trade Cooperation (including the former Ministry of Foreign Economic Trade), the former State Economic and Trade Commssion(including the former State Economic Commssion), the Ministry(bureau)of former Domestic trade, the former State Planning and Development Commssion which the departmental rules and regulatory documents(as the annex shows) involved are change to the Ministry of Commerce.

This notice is hereby.

July 10, 2003

Annex: rules and regulatory documents which belong to the duty of the Ministry of Commerce and are required to modify the name of their authorties or implementing agencies.

Excerpt

	……		
340	Decree of the Ministry of Foreign Trade and Economic Cooperation of the People's Republic of China on Public Hearing in Antidumping Investigations	the Ministry of Foreign Trade and Economic Cooperation	Decree of the Ministry of Foreign Trade and Economic Cooperation No.3，2002 January 16, 2002
341	Provisional Rules on Initiation of Antidumping Investigations	the Ministry of Foreign Trade and Economic Cooperation	Decree of the Ministry of Foreign Trade and Economic Cooperation No.8, 2002 February 10 ， 2002

342	Provisional Rules on On-the-spot Verification In Anti-Dumping Investigations	the Ministry of Foreign Trade and Economic Cooperation	Decree of the Ministry of Foreign Trade and Economic Cooperation No.13 2002 March 13, 2002
343	Provisional Rules on Questionnaire in Antidumping Investigations	the Ministry of Foreign Trade and Economic Cooperation	Decree of the Ministry of Foreign Trade and Economic Cooperation No. 14 , 2002 March 13, 2002
344	Provisional Rules on Sampling in Antidumping Investigations	the Ministry of Foreign Trade and Economic Cooperation	Decree of the Ministry of Foreign Trade and Economic Cooperation NO.15,2002 March 13, 2002

345	Provisional Rules on Disclosure of Information In Anti-dumping Investigations	the Ministry of Foreign Trade and Economic Cooperation	Decree of the Ministry of Foreign Trade and Economic Cooperation No.18, 2002 March 13, 2002
346	Provisional Rules on Access to Non-Confidential Information In Anti-dumping Investigations	the Ministry of Foreign Trade and Economic Cooperation	Decree of the Ministry of Foreign Trade and Economic Cooperation No.19, 2002 March 13, 2002
347	Provisional Rules on Price Undertakings In Antidumping Investigations	the Ministry of Foreign Trade and Economic Cooperation	Decree of the Ministry of Foreign Trade and Economic Cooperation No.20, 2002 March 13, 2002

348	Provisional Rules on New Shipper Review In Anti-dumping Investigations	the Ministry of Foreign Trade and Economic Cooperation	Decree of the Ministry of Foreign Trade and Economic Cooperation No.21, 2002 March 13, 2002
349	Provisional Rules on Refund of Anti-dumping Duty	the Ministry of Foreign Trade and Economic Cooperation	Decree of the Ministry of Foreign Trade and Economic Cooperation No.22, 2002 March 13, 2002
350	Provisional Rules on Interim Review of Dumping and Dumping Margin	the Ministry of Foreign Trade and Economic Cooperation	Decree of the Ministry of Foreign Trade and Economic Cooperation No.23,2002 March 13, 2002

351	Provisional Rules on the Procedure of Adjustment to the Product Scope of Antidumping Investigations	the Ministry of Foreign Trade and Economic Cooperation	Decree of the Ministry of Foreign Trade and Economic Cooperation No.37, 2002 March 13, 2002
352	Provisional Rules for Initiation of Countervailing Investigations	the Ministry of Foreign Trade and Economic Cooperation	Decree of the Ministry of Foreign Trade and Economic Cooperation No.12, 2002 February 10, 2002
353	Provisional Rules for Questionnaires in Countervailing Duty Investigations	the Ministry of Foreign Trade and Economic Cooperation	Decree of the Ministry of Foreign Trade and Economic Cooperation No.16, 2002 March 13, 2002

354	Provisional Rules for the Conduct of Public Hearings in Countervailing Duty Investigations	the Ministry of Foreign Trade and Economic Cooperation	Decree of the Ministry of Foreign Trade and Economic Cooperation No.10, 2002 February 10, 2002
355	Provisional Rules for On-the-spot Verification in Countervailing Duty Investigations	the Ministry of Foreign Trade and Economic Cooperation	Decree of the Ministry of Foreign Trade and Economic Cooperation No.17, 2002 March 13, 2002
356	Provisional Rules on Initiation of Safeguard Investigations	the Ministry of Foreign Trade and Economic Cooperation	Decree of the Ministry of Foreign Trade and Economic Cooperation No.9, 2002 February 10, 2002

357	Provisional Rules for Public Hearing in Safeguard Investigations	the Ministry of Foreign Trade and Economic Cooperation	Decree of the Ministry of Foreign Trade and Economic Cooperation No.11, 2002 February 10, 2002
358	Interim Rules on The Procedures for Adjusting The Range of Products under Safeguards	the Ministry of Foreign Trade and Economic Cooperation	Decree of the Ministry of Foreign Trade and Economic Cooperation No.38, 2002 December 13, 2002
359	Rules for Investigation on Trade Barrier	the Ministry of Foreign Trade and Economic Cooperation	Decree of the Ministry of Foreign Trade and Economic Cooperation No.31, 2002 September 23, 2002

360	Provisional Rules on Responding to Anti-dumping Case Relating to Export Products	the Ministry of Foreign Trade and Economic Cooperation	Decree of the Ministry of Foreign Trade and Economic Cooperation No. 5, 2002 October 11, 2001

（I）Anti-Dumping

Provisional Rules on Initiation of Antidumping Investigations

Chapter 1 General Provisions

Article 1 With a view to regulating the procedure of application and initiation of an antidumping investigation, these Rules are formulated in accordance with provisions of the "Anti-dumping Regulation of the People's Republic of China".

Article 2 The Ministry of Foreign Trade and Economic Co-operation (hereinafter referred to as MOFTEC) delegates the Bureau of Fair Trade for Imports and Exports to be responsible for implementation of these Rules.

Article 3 MOFTEC may initiate an anti-dumping investigation upon an application filed by the applicant or may also initiate such an investigation on its own initiative.

Chapter 2 Standings of Applicant

Article 4 Domestic industry or natural person, legal person or relevant organizations representing the domestic industry (hereinafter referred to as "the applicant") may file an application for an anti-dumping investigation.

Article 5 Domestic industry refers to the domestic producers as whole of the like product in the People's Republic of China, or to those producers whose collective output of the products constitutes more than 50 per cent of the total

domestic production of the like product.

Article 6 Where the collective output of the applicants accounts for less than 50 per cent of the total domestic production of the like product, the application shall be regarded as being made on behalf of the domestic industry if it is supported by those domestic producers whose collective output constitutes more than 50 per cent of the total production made by that portion of the domestic industry expressing either support or opposition to the application, and if the production of the domestic producers expressing support to the application accounts for no less than 25 per cent of the total production of the like product.

The production of the applicant shall be counted while the output of the production of the domestic producers supporting the application provided for in Paragraph 1 of this Article is to be established.

Article 7 In case the domestic industry is fragmented and involving a large number of producers, MOFTEC may examine the standing of the applicant by using statistically valid sampling method.

Article 8 Where domestic producers are related to the exporters or importers or are themselves importers of the allegedly dumped import, they may be excluded from the domestic industry.

Article 9 The producers located in a certain area of the domestic market may be regarded as a separate industry if they sell all or almost all of their production of the like product in that market, and the demand for the like product in that market is not to any substantial degree supplied by the producers located elsewhere in China.

Chapter 3 Application

Article 10 An application for an anti-dumping investigation shall be filed in

a written form. The application shall contain a formal request to the MOFTEC expressing applicant's intent to initiate an anti-dumping investigation, and shall be sealed or signed by the applicant or its legally authorized person.

Article 11 The application for an anti-dumping investigation shall contain the following information together with relevant supporting materials:

(1) Identity of the applicant;

(2) Known producers, exporters and importers of the allegedly dumped import;

(3) Complete description of the allegedly dumped import, the domestic like product and comparison between them;

(4) Dumping and dumping margin;

(5) Injury suffered by the domestic industry;

(6) Causal link between dumping and injury;

(7) Other information the applicant considers necessary to address in the application.

Article 12 The description of the identity of the applicant shall contain the following supporting materials:

(1) Applicant's name, legal representative, address, telephone number, facsimile number, post code, contact person, etc.;

(2) Where an attorney at law is appointed by the applicant, the attorney's name, his/her identity and other information shall be specified and the Power of Attorney be provided;

(3) Volume of the production of the like product produced by the applicant in

the last three years prior to the submission of the application and its proportion it accounts for in the total volume of the domestic production of the like product;

(4) List of all known domestic producers of the like product; if the domestic producers of the like product have organized an association or a chamber of commerce, the relevant information concerning that association or chamber of commerce, such as the name, address, telephone number, facsimile number, postcode and contact person, etc;

Article 13 With regard to the known producers, exporters and importers of the alleged dumped import, the applicant shall provide the following supporting materials:

(1) General description of the allegedly dumped import;

(2) Information concerning the known producers, exporters, and importers of the allegedly dumped import, such as their names, legal representatives, addresses, telephone numbers, facsimile numbers, post codes and contact persons, etc.

Article 14 With respect to the description of the allegedly dumped import, the domestic like product and the comparison between, the applicant shall provide the following supporting materials:

(1) Full description of the allegedly dumped import, including product name, types, specification, usage and market situation, and the Customs Code of the People's Republic of China, etc.;

(2) Countries (regions) of origin or the exporting countries (regions) of the allegedly dumped import;

(3) Full description of the domestic like product, including the product name,

types, specification, usage and market situation, etc.;

(4) Comparison on similarities and differences between the allegedly dumped import and the domestic like product, including physical characteristics, chemical property, production and processing technology, substitutability, price and usage, etc.

Article 15 With regard to the export price, the applicant shall provide the price of the allegedly dumped import actually paid or payable during a period of 12 months prior to the submission of the application.

The supporting documents mentioned above may be provided by the way of actual transaction price, price quotation, price list, the Customs statistics, and the statistic data from authoritative institutions or magazines, etc.

Article 16 With regard to the normal value, the applicant shall provide the comparable price in the ordinary course of trade of the like product for consumption in the exporting countries (regions) or countries (regions) of origin; where there is no comparable price or such price can not be obtained, the applicant shall provide the constructed value of the allegedly dumped import or the price for export to a third country.

The supporting documents provided by the applicant for the constructed value of the allegedly dumped import shall include evidence of cost of production and reasonable expenses for the product in question. When the actual constructed value cannot be obtained, the applicant may calculate it on the basis of its own factors of production, the prevailing prices of these factors in the exporting countries (regions) or in the international market.

The supporting documents mentioned above may be provided by the way of actual transaction price, price list or the statistic data from the authoritative institutions or magazines, etc.

Article 17 With regard to the price adjustments and price comparison, the applicant shall make an appropriate adjustment for the differences between normal value and export price with respect to the sales conditions, terms, taxes, level of trade, quantities and physical characteristics, etc. The comparison between the normal value and the export price shall be made at as nearly as possible the same level of trade, the same time and at the ex-factory level.

Article 18 The applicant shall make a preliminary estimation of dumping margin, which shall be obtained by using the methodology of the adjusted weighted average normal value minus the adjusted weighted average export price, divided by the weighted average CIF export price.

The applicant shall provide an explanation if other calculation methodologies are applied.

Article 19 The assessment of injury caused to the domestic industry includes, inter alia, the types of the injury (material injury, threat of material injury or material retardation of the establishment of a domestic industry), changes of import volume and price of the allegedly dumped import, its effect on price of the domestic like product, and its impact on the relevant economic factors and indices having a bearing on the state of the domestic industry.

Article 20 Where the application is filed on the basis of material injury caused to the domestic industry, the applicant shall provide the following evidence:

(1) Increase of import of the allegedly dumped product either in absolute volume or relative to production or consumption of the domestic like product, the import volume and changes in the last 3 years prior to the submission of the application, the diagram of curves concerning the above-mentioned fluctuation of the quantities, etc.;

(2) Average price of sales of the allegedly dumped import in domestic market of China and its fluctuation curves, etc. in the last 3 years prior to the submission of the application;

(3) Impact of the price of the allegedly dumped import on the price of the domestic like product, including the price undercutting of the domestic like product, the depressing and suppressing effect on the price of the domestic like product and the impact on the price movement of the domestic product.

(4) Impact of the allegedly dumped import on the economic indices or factors relevant to the domestic industry, including the actual or potential decline of sales, profit, output, market shares, productivity, return on investment or utilization of capacity, the factors affecting the domestic price, the magnitude of dumping margin, cash flow, employment, wages, ability to raise capital or investment, and inventories, etc.

Where certain factors or indices mentioned above are not applicable, the applicant shall provide an explanation thereof.

Article 21 Where the application is filed on the basis of threat of material injury caused to the domestic industry, the applicant shall provide the following evidence:

(1) Possibility of a significant increase in the allegedly dumped import entering into the domestic market at dumped prices, including the current and potential export capacity of the exporting countries (regions), the inventory level in the exporting countries (regions), etc.;

(2) Trend of foreseeable and imminent changes of factors and indices listed in Subparagraph 4 of Article 20 of these Rules.

Article 22 Where the application is filed on the basis of material retardation

of establishment of a domestic industry, the applicant shall provide not only the evidence listed in Articles 20 and 21 of these Rules, but also the evidence relevant to the feasibility of development of the domestic industry, including the plan of the establishment of the industry and its actual execution.

Article 23 The applicant's allegation concerning the impact of the alleged dumped import on the domestic industry and submission of the relevant evidence shall focus on determinations in relation to the separate identification of the production of the domestic like product. If such separate identification of that production of the domestic like product is not possible, the allegation shall focus on the production of the narrowest group or range of products which include the domestic like product.

Article 24 With regard to the causal link between dumping and injury, the applicant shall provide:

(1) Arguments to justify causal link between the allegedly dumped import and injury suffered by domestic industry;

(2) Demonstration for the effect on injury caused to domestic industry by the quantity and price of the imported product which is not sold at dumping price, contraction in demand or changes in the patterns of consumption, trade-restrictive practice of and competition between foreign and domestic producers, development in technology, the export performance and productivity of the domestic industry, etc,.

If the applicant considers that certain factors as above-mentioned are inapplicable, the applicant shall provide an explanation.

Article 25 The applicant shall explain the sources from which the evidence comes while providing the supporting materials specified in this Chapter.

Article 26 The applicant shall request for confidentiality treatment if the

application for an anti-dumping investigation contains confidential materials; the request shall provide a meaningful non-confidential summary for those confidential materials to permit other interested parties to have a reasonable understanding about the confidential materials. The applicant shall give reasons if such non-confidential summary is impossible.

Article 27 The application for an anti-dumping investigation and supporting materials provided shall be in Chinese printing; where there is standardized terminology by the State, the standardized terms shall be used.

If the supporting materials provided by the applicant are in foreign languages, the applicant shall provide the full text of such materials in foreign languages and the Chinese translation of the part relevant to the investigation.

Article 28 The application for an anti-dumping investigation shall be made in both confidential version (in case where the applicant requests for confidentiality treatment) and non-confidential version. One original and six copies shall be submitted for both confidential version and non-confidential version. Besides one original and six copies submitted, more copies of the non-confidential version should be provided according to the number of governments of the known exporting countries (regions) of the allegedly dumped import. If there is a large number of governments of the known exporting countries (regions) of the allegedly dumped import, the number of copies may be reduced, but not to less than five.

Article 29 The Bureau of Fair Trade for Imports & Exports may require the applicant to provide the electronic data carrier of the application and supporting materials.

Article 30 The applicant shall submit its written application and supporting materials to the Bureau of Fair Trade for Imports & Exports by mail or direct service.

Article 31 The Bureau of Fair Trade for Imports & Exports shall sign up if the applicant formally submits the application and supporting materials. The date of signature is the date on which the Bureau of Fair Trade for Imports & Exports receives the written application and supporting materials.

Chapter 4 Initiation

Article 32 The Bureau of Fair Trade for Imports & Exports may conduct investigation by ways of questionnaire or on-the-spot verification on the issues contained in the application and supporting materials, including the standings of the applicant, the allegedly dumped product of import, etc.

Article 33 The Bureau of Fair Trade for Imports and Exports shall examine the application for an anti-dumping investigation submitted by the applicant and make comments thereon, and shall make a decision, within 60 days upon the receipt of the application and supporting materials, of whether to initiate the investigation after consulting with the State Economic and Trade Commission.

Article 34 The Bureau of Fair Trade for Imports and Exports shall forward one copy of the application and supporting materials to the State Economic and Trade Commission within 7 days upon the receipt of the written application and supporting materials. The State Economic and Trade Commission shall have at least 20 days to examine the application and supporting materials, and present its opinion on initiation of the anti-dumping investigation.

Article 35 The Bureau of Fair Trade for Imports and Exports may require the applicant to make amendments or to provide supplementary information to the application for anti-dumping investigation within the period specified in Article 33 of these Rules. If the applicant does not make amendment nor provide supplementary information, or if it fails to make amendments or to provide supplementary information in conformity with the requirements for

contents specified and within the time limits, MOFTEC may reject the application and notify the applicant.

Article 36 The application, if rejected by MOFTEC, shall not be published.

Article 37 A Public Notice shall be issued if FTEC decides to initiate an anti-dumping investigation.

Article 38 MOFTEC shall notify the government of exporting countries (regions) before issuing the Public Notice for initiation of the investigation.

Article 39 The Public Notice for initiation of the investigation shall contain the following information:

(1) Summary of the written application and the result of examination by MOFTEC;

(2) Date of initiation of the investigation;

(3) Product to be investigated and the name of exporting countries (regions);

(4) Period of investigation;

(5) Intent of the investigating authorities for on-the-spot verification;

(6) Consequences to be borne by interested party for non-responding;

(7) Time limits for the interested party to present comments;

(8) Ways to contact the investigating authorities.

Article 40 Upon the issuance of the Public Notice of initiation, the Bureau of Fair Trade for Imports and Exports shall provide the non-confidential text of the application to the known exporters and the government of exporting countries (regions). If a large number of exporters are subject to the investigation, the Bureau of Fair Trade for Imports and Exports shall provide

the non-confidential text of the application only to the government of the exporting countries (regions).

Article 41 The date of publication of the Public Notice for the decision to initiate an antidumping investigation is the date of initiation of investigation.

Charter 5 Supplementary Provisions

Article 42 Where MOFTEC has sufficient evidence proving the existence of dumping and injury as well as the causal link between dumping and injury, MOFTEC may, after consulting with the State Economic and Trade Commission, decide to initiate an investigation on its own initiative.

Article 43 MOFTEC shall be responsible for interpretation of these Rules.

Article 44 These Rules shall enter into force from the date of 13 March 2002.

Provisional Rules on Sampling in Antidumping Investigations

Chapter 1 General Provisions

Article 1 With a view to ensuring fairness, justice and openness of an anti-dumping investigation, these Rules are formulated in accordance with provisions of the "Antidumping Regulation of the People's Republic of China".

Article 2 The Ministry of Foreign Trade and Economic Co-operation (hereinafter referred to as MOFTEC) delegates the Bureau of Fair Trade for Import and Export to be responsible for implementation of these Rules.

Article 3 MOFTEC shall normally, on the basis of a full-scale investigation, determine separate dumping margin for each individual responding exporter or producer. However, in case where the number of exporters, producers, types of products or transactions is so large that it would be unduly burdensome and prevent timely completion of the investigation to determine separate dumping margin for each individual exporter and producer or to investigate all types of products and all transactions, MOFTEC may carry out its investigation by using sampling method.

Article 4 MOFTEC shall, based upon the information available at the time of sampling, select samples for the investigation by using statistically valid sampling method or according to the export volume.

Article 5 The samples for the investigation selected by MOFTEC shall be regarded as representative.

Chapter 2 Sampling on Exporters and Producers

Article 6 MOFTEC shall, based upon the situation of registration in and responding to the antidumping case, decide on the selection of exporters and producers both in the sample and in the reserve list.

Article 7 MOFTEC shall notify each interested party immediately after the preliminary decision on the selection of exporters and producers in the sample and in the reserve list is made.

Interested parties may, within 7 days upon the receipt of the notification, make comments on such selection of sampled exporters and producers.

Article 8 MOFTEC shall, as much as possible, select those exporters and producers who agree to be selected in the sample. However, exporters and producers disagree to such selection has no prejudice to the selection of MOFTEC.

Article 9 MOFTEC shall issue its questionnaire for investigation only to the exporters and producers selected in the sample and in the reserve list. The exporters and producers selected in the sample and in the reserve list shall provide timely a complete and accurate response to the questionnaire in line with the requirements of the questionnaire.

Article 10 The exporters and producers not selected in the sample and in the reserve list may provide information to MOFTEC on a voluntary basis.

Article 11 MOFTEC shall determine separate dumping margin for each individual exporters and producers selected in the sample.

Article 12 Where the sampled exporters and producers fail to cooperate, MOFTEC may use those exporters and producers in the reserve list to take their place.

Article 13 The dumping margin for responding exporters and producers who are not subject to the individual examination shall be determined on the basis of the weighted average dumping margin determined for the sampled exporters and producers.

Article 14 The calculation of such weighted average dumping margin shall exclude:

(1) zero dumping margin;

(2) de minimis dumping margin as less than 2 per cent;

(3) dumping margin determined in accordance with Article 21 of the "Antidumping Regulation of the People's Republic of China".

Article 15 MOFTEC shall examine individually the exporters and producers who are not selected in the sample but have submitted necessary information in time and expressly requested separate determination of dumping margin, provided that such separate examination would not prevent timely completion of the dumping investigation.

Article 16 The determination of dumping margin for non-responding exporters and producers shall be made in accordance with Article 21 of the "Antidumping Regulation of the People's Republic of China".

Chapter 3 Sampling on Types of Products

Article 17 After receiving the response to the questionnaire from responding exporters and producers, if MOFTEC finds that the number of types of the product under investigation of the exporters and producers is too large, MOFTEC may select a part of types of products by using sampling method to determine dumping and dumping margin for the product under investigation of the responding company in question,.

Article 18 MOFTEC shall notify each interested party immediately after the primary decision on the selection of types of the product in the sample is made.

Interested parties may, within 7 days upon the receipt of the notification, make comments on such selection of sampled types of the product.

Article 19 MOFTEC shall, as much as possible, select those types of the product to which the exporters and producers have agreed to be selected in the sample. However, exporters and producers disagree to such selection has no prejudice to the selection of MOFTEC.

Article 20 The dumping margin of the product under investigation shall be determined on the basis of the weighted average dumping margin of the selected types of the product concerned.

Chapter 4 Sampling on Transactions

Article 21 After receiving the response to the questionnaire from responding exporters and producers, in case where the number of transactions of the product under investigation for domestic sales or for export sales is too large, MOFTEC may select a part of transactions by using sampling method to determine normal value and export price for the product concerned,.

Article 22 MOFTEC shall use the statistically valid sampling method for its samples to be selected.

Article 23 While deciding on the selected transactions in the sample, MOFTEC shall obtain the agreement from the responding exporters and producers concerned.

Article 24 The normal value or the export price of the product under investigation shall be determined on the basis of weighted average normal value or export price of the sampled transactions.

Chapter 5 Supplementary Provisions

Article 25 The statistically valid sampling method includes equidistant sampling, random sampling or any other appropriate sampling method in statistics.

Article 26 MOFTEC shall be responsible for interpretation of these Rules.

Article 27 These Rules shall enter into force from the date of 15 April 2002.

Provisional Rules Questionnaire in Antidumping Investigations

Chapter 1 General Provisions

Article 1 With a view to ensuring an anti-dumping investigation by way of questionnaire going smoothly and orderly, these Rules are formulated in accordance with provisions of the "Antidumping Regulation of the People's Republic of China".

Article 2 The Ministry of Foreign Trade and Economic Cooperation (hereinafter referred to as MOFTEC) delegates the Bureau of Fair Trade for Import and Export to be responsible for implementation of these Rules.

Article 3 These Rules apply to an anti-dumping investigation s carried out by MOFTEC through the method of investigation questionnaire in order to determine dumping and dumping margin.

Article 4 The investigation questionnaire mentioned in these Rules refers to a written question list issued by MOFTEC, during the antidumping investigation, to the exporters and producers of the countries (regions) concerned who have registered in and responded to the investigation (hereinafter referred to as "responding company").

Article 5 The responding company shall, according to the requirements made by MOFTEC, reply completely and accurately to all questions listed and submit all information and materials required in the investigation questionnaire.

Chapter 2 Issuance of Questionnaire

Article 6 The producers or exporters of the countries (regions) concerned shall, according to the requirements specified in the Public Notice for the initiation of the investigation, register with MOFTEC and respond to the investigation within 20 days from the date of initiation of an anti-dumping case.

Article 7 The producers and exporters, while handling their registration with MOFTEC and responding to the investigation, shall submit the following information in simplified Chinese printing:

(1) Intent of registration in and responding to the investigation;

(2) Name, address, legal representative, way of contact and contact person of the responding company;

(3) Total quantity and value of the product under investigation exported to the People's Republic of China during the period of investigation.

The registration document for responding to the investigation shall be sealed by the responding company and/or signed by its legal representative.

Where a practising attorney at law of the People's Republic of China is appointed for the submission of the registration document, the responding company shall list, as part of the document, the attorney's name, way of contact, name and address of the law firm the attorney appointed belongs to and the original power of attorney.

Article 8 The investigation questionnaire shall be issued to the responding companies within 10 working days upon the ending of registration.

Article 9 If the number of responding companies is too large and MOFTEC decides to carry out the anti-dumping investigation by using sampling method, the investigation questionnaire may be issued only to the responding

companies selected in the sample.

MOFTEC may properly extend the period of issuing the questionnaire if the investigation is conducted by sampling.

Chapter 3 Requirements on Response to Questionnaire

Article 10 The responding company shall submit a complete and accurate response to the questionnaire within a specified time limit. The response shall contain all information required in the investigation questionnaire.

Article 11 The responding company, encountering questions while replying to the investigation questionnaire, may consult in writing the case handlers listed in the questionnaire.

Article 12 Before answering the questions listed in the investigation questionnaire, the responding company shall first lay out the subject of the question and then answer directly under the subject.

Article 13 The questionnaire shall be completed in simplified Chinese printing and shall be attached by relevant supporting documents according to the requirements. If the supporting materials are in foreign languages, the Chinese translation shall be provided in the original form of the text in foreign languages, with attachment of such original text in foreign languages or its copy.

Article 14 The responding company shall indicate the source and origin of the supporting materials used in the response. All documents relevant to the questionnaire, such as sales documents, accounting records, financial reports and other documents, shall not only be attached to the response to the questionnaire of the company as required, but also be made available for afterward verification.

Article 15 The supporting materials for transactions required by the questionnaire shall be lined up in chronological order; supporting materials for each transaction shall be lined up according to the flow of activities and a sheet listing those supporting materials for each transaction shall be provided.

Article 16 Where the responding company is required, according to the requirement of the questionnaire, to copy the investigation questionnaire and forward it to its associated trading company or other related companies to complete, the associated trading company or other related companies shall submit the questionnaire separately according to the requirement of the questionnaire.

Chapter 4 Submission of Questionnaire

Article 17 The response to the investigation questionnaire shall be submitted to MOFTEC within 37 days from the date on which it was issued.

Article 18 Where the responding company has reasonable grounds indicating that it is unable to complete the questionnaire before the submission deadline, the responding company shall submit, 7 days before the submission deadline, to MOFTEC a written request for an extension of the period for submission of the response to the questionnaire, elaborating its request and reasons for such extension.

MOFTEC shall reply in writing, 4 days before the submission deadline, to the request for the said extension upon the consideration of the specific situation of the responding company requesting the extension.

The extension shall not exceed 14 days normally.

Article 19 Where the responding company considers that the response to the questionnaire contains confidential information, the responding company shall request for confidentiality treatment and address the reasons for such

confidentiality treatment.

A non-confidential summary shall be given for information requested for confidentiality treatment. A non-confidential summary shall contain adequate and meaningful information so as to allow other interested parties to have a reasonable understanding. In case the provision of a non-confidential summary is impossible, the responding company shall explain the reasons thereof.

Article 20 MOFTEC shall examine the request for confidentiality treatment. If the reason for confidentiality treatment is considered insufficient, or the non-confidential summary does not satisfy the requirement specified in Paragraph 2 of Article 19 of these Rules, or the reason that the responding company fails to provide the non-confidential summary is insufficient, the responding company may be required to make corresponding amendments thereon within a specified time limit.

MOFTEC may disregard the materials if the responding company refuses to amend the non-confidential summary or the non-confidential summary after being amended does not yet satisfy the requirement.

Article 21 The response to the questionnaire shall be made in two versions. One version is a complete response containing the confidential information; the other version is a response only containing non-confidential information. The responding company shall clearly mark on the cover page of each response as confidential version or non-confidential version. In the non-confidential version of the response, the confidential part shall be marked with a signal of "[ ]", plus the corresponding serial number in the non-confidential summary.

Article 22 The responding company shall submit one original response and four copies in Chinese for confidential version and non-confidential version respectively.

The whole response must be properly bound up into book. The page number must be labelled on the text of the response and on each attached supporting materials. The response shall contain a table of content for the text of the response and the attached supporting materials, and each annex shall be labelled with serial number.

Article 23 The responding company shall submit a letter of certificate signed by the legal representative or its authorized person according to the requirement of the questionnaire, stating that the information submitted by the responding company is accurate and complete.

MOFTEC shall not accept the response to the questionnaire if such letter of certificate is not attached to.

Article 24 With respect to the narrative part and tables of data in the response submitted, the responding company shall provide corresponding computer floppy disk , CD or other electronic data carriers acceptable to MOFTEC according to the requirement of the questionnaire.

The content in the electronic data carriers shall be in the same format as in the response, and the calculation formula shall be retained in the table if calculation on the data is involved..

Article 25 The responding company shall guarantee that the submitted electronic data carrier contains no virus. It would be considered as to impede the investigation if it contains certain virus, and in such case MOFTEC may make determination on the basis of facts available and the best information available.

Article 26 In normal circumstances, the responding company who fails to submit the electronic data carrier, in particular the one containing transaction data and financial data, shall be considered as non-cooperative.

If the responding company is unable to submit electronic data carriers or unable to submit electronic data carriers according to the requirement of these Rules, or it would be unduly burdensome for the responding company to submit electronic data carriers according to the requirement of these Rules, the responding company may submit a written request to MOFTEC within 15 days after the questionnaire is issued, explaining the reason of inability to submit electronic data carriers as required. MOFTEC shall reply in writing to the responding company on whether to approve the request within 5 days upon the receipt of it.

Article 27 The response to the questionnaire of the responding company shall be represented through a practising attorney at law of the People's Republic of China and relevant matters shall be dealt with by the attorney. A valid power of attorney and a copy of the valid lawyer permit of the attorney shall be attached to the response to the questionnaire.

Article 28 The response to the questionnaire shall be mailed or directly delivered to the address mentioned in the questionnaire by 17:00 of the submission deadline.

The delivery date shall be the date on which MOFTEC receives the response to the questionnaire.

Chapter 5 Supplementary Provisions

Article 29 In the course of the investigation, MOFTEC may issue supplementary investigation questionnaire to the responding company, requiring further information and materials.

These Rules shall apply to the matters relevant to the issuance, response, submission, etc. of the supplementary questionnaire.

Article 30 MOFTEC may issue the investigation questionnaire to importers.

These Rules shall apply to the matters relevant to the issuance, response, submission, etc. of the investigation questionnaire to the importers.

Article 31 Where the responding company does not submit the response to the questionnaire within the specified time limit, or can not submit a complete and accurate response to the questionnaire according to the requirement specified in these Rules, or does not permit MOFTEC to verify the materials it submitted, or impedes seriously the investigation through other methods, MOFTEC may make preliminary or final determination on the basis of facts available and best information available.

Article 32 MOFTEC shall be responsible for interpretation of these Rules.

Article 33 These Rules shall enter into force from the date of 15 April 2002.

Provisional Rules on Disclosure of Information In Anti-dumping Investigations

Article 1 With a view to ensuring fairness, justice and openness of anti-dumping investigations, these Rules are formulated in accordance with provisions of the "Anti-dumping Regulation of the People's Republic of China".

Article 2 The Ministry of Foreign Trade and Economic Co-operation (hereinafter referred to as MOFTEC) delegates the Bureau of Fair Trade for Import and Export to be responsible for implementation of these Rules.

Article 3 The term "disclosure" provided for in these Rules refers to the procedure under which MOFTEC notifies relevant interested parties in an anti-dumping investigation who have provided information during the course of investigation of the essential data, information, evidence and reasons adopted for establishment of the existence of dumping and dumping margin for that particular interested party.

Article 4 Disclosures consist of disclosure after the preliminary determination is publicized, disclosure of the result of on-the-spot verification and disclosure before the final determination is made.

Article 5 Information which is contained in the disclosures after the preliminary determination is publicized and before the final determination is made includes:

(1) Regarding Normal Value: establishment of normal value, transaction data submitted and data having been adjusted adopted for calculation of normal value, data rejected for calculation of normal value and reasons for the

rejection, etc.;

(2) Regarding Export Prices: establishment of export prices, transaction data submitted and data having been adjusted adopted for calculation of export prices, data rejected for calculation of export prices and reasons, etc.;

(3) Regarding Costs: Data for the establishment of cost of production, allocation method for various expenses and data adopted, estimate of profits, establishment of abnormal or non-recurring items, etc.;

(4) Usage of best information available and facts available and reasons, provided that confidential information of other interested parties is not involved;

(5) Methodologies for calculation of dumping margin;

(6) Other information MOFTEC considers necessary to disclose.

Article 6 Disclosures shall be made in written form.

Article 7 MOFTEC shall make disclosure to the relevant interested parties within 20 days from the date of issuance of Public Notice of the preliminary determination in an anti-dumping investigation.

Article 8 MOFTEC shall, after the disclosure is made to the relevant interested parties, give that interested party no less than 10 days to make comments on the preliminary determination and the disclosed information and facts.

Such comments shall be in written form, and submitted to MOFTEC within a stipulated period of time.

Article 9 MOFTEC shall, within a reasonable period of time after the on-the-spot verification is completed, make disclosure concerning the result of

the on-the-spot verification to the relevant exporters and producers whose data provided have been verified. Such disclosure includes:

(1) Whether the exporters and producers subject to the verification have been cooperative during the verification;

(2) Whether data, information and materials provided by such exporters and producers are genuine, accurate and complete;

(3) Whether such exporters and producers have conducted fraud or concealment;

(4) Further collection of information during the verification in the countries (regions) where such exporters and producers are located;

(5) Other information MOFTEC considers necessary to disclose.

Article 10 Where the disclosure is conducted before the final determination is made, MOFTEC shall give the relevant interested parties subject to the disclosure no less than 10 days to make comments on the disclosed information and facts.

Such comments shall be in written form, and submitted to MOFTEC within a stipulated period of time.

Article 11 Disclosure of confidential information concerning anti-dumping reviews shall be carried out in accordance with provisions of these Rules.

Article 12 MOFTEC shall be responsible for interpretation of these Rules.

Article 13 These Rules shall enter into force from the date of 15 April 2002.

Provisional Rules on Access to Non-Confidential Information In Anti-dumping Investigations

Article 1 With a view to ensuring fairness, justice and openness in anti-dumping investigations, these Rules are formulated in accordance with provisions of the "Anti-dumping Regulation of the People's Republic of China".

Article 2 The Ministry of Foreign Trade and Economic Co-operation (hereinafter referred to as "MOFTEC") delegates the Bureau of Fair Trade for Imports and Exports to be responsible for implementation of these Rules.

Article 3 Access to non-confidential information provided for in these Rules refers to that the interested parties relevant to an anti-dumping case go to a place designated by MOFTEC to search, read, transcribe and copy the non-confidential information and materials submitted by other interested parties with regard to the anti-dumping case in question.

Article 4 MOFTEC permits all interested parties to have an access to all non-confidential information relating to the case under investigation.

Article 5 The accessible non-confidential information specified in Article 4 of these Rules includes:

(1) Non-confidential version of the application for initiation of an anti-dumping investigation submitted by the applicant;

(2) Non-confidential version of the responses to the questionnaire and supplementary responses submitted by foreign responding exporters and producers;

(3) Other non-confidential information submitted to MOFTEC by interested parties;

(4) Requests made to MOFTEC by relevant interested parties, including but not limited to, request for extension of the time period for submission of the response to the questionnaire, request for adding of countries (regions) to be investigated, request for retroactive levy of anti-dumping duties, and requests for price undertakings, public hearings, reviews, etc.;

(5) Non-confidential information contained in the views and comments presented by other interested parties with respect to the requests mentioned in the above Paragraph of this Article;

(6) MOFTEC's reply to the requests mentioned in Paragraph 4 of this Article.

(7) Summary of meetings between MOFTEC and relevant interested parties;

(8) Public Notice and notifications issued by MOFTEC;

(9) Summary of on-the-spot verification carried out by MOFTEC;

(10) Other non-confidential information MOFTEC considers accessible to the interested parties.

Article 6 When submitting relevant information to MOFTEC, interested parties shall mark it as non-confidential or confidential.

If the information provided by interested parties is confidential, the interested parties may apply for confidentiality treatment for such confidential information, and shall submit a non-confidential summary thereof. This summary shall be incorporated in the non-confidential version of the submission.

In case information is not marked as confidential, MOFTEC may consider it as

non-confidential, and make it accessible to other interested parties.

Article 7 Each interested party may, during the whole process of investigation of a case, get access to the non-confidential information in MOFTEC at MOFTEC's working time.

Article 8 Before taking the access to the non-confidential information, the interested party shall contact in advance the relevant officials of MOFTEC and address the content and scope of the information they intend to get access to.

Article 9 While searching the non-confidential information, the interested party shall present its identity card or other documents indicating its identity to relevant officials of MOFTEC and shall make registration.

Article 10 Interested parties may transcribe and copy the non-confidential information they have searched, but shall not borrow it out.

Article 11 MOFTEC shall be responsible for interpretation of these Rules.

Article 12 These Rules shall enter into force from the date of 15 April 2002.

Provisional Rules on Public Hearing in Antidumping Investigations

Article 1 With a view to ensuring fairness and justice of an anti-dumping investigation and safeguarding legal rights and interests of interested parties, these Rules are formulated in accordance with relevant provisions of the "Antidumping Regulations of the People's Republic of China".

Article 2 These Rules apply to the public hearing held by the Ministry of Foreign Trade & Economic Cooperation (hereinafter referred to as "MOFTEC") in the procedure of an anti-dumping investigation on the determination of dumping.

Article 3 The Bureau of Fair Trade for Imports and Exports (hereinafter referred to as "BOFT") of MOFTEC is responsible for holding the public hearing on the determination of dumping.

Article 4 The public hearing on the determination of dumping shall be held openly. However, if national secrets, commercial secrets or personal privacy are concerned, upon requests by interested parties, BOFT may decide to take other ways to hold the said public hearing.

Article 5 BOFT may hold a public hearing upon request made by interested parties, and may decide to do so on its own initiative if it considers necessary.

Article 6 Where BOFT decides to hold a public hearing on its own initiative, it shall notify interested parties in advance, and relevant provisions of these Rules are applied.

Article 7 Interested parties mentioned in these Rules refers to the applicant,

known exporters and importers, the government of the exporting countries (regions) of an antidumping investigation and other organizations or individuals who have interests in the said antidumping investigation.

Article 8 Where an interested party requests to hold a public hearing, it shall submit a written application to BOFT for the public hearing.

The application shall include the following information:

(1) Name, address and relevant information of the public hearing applicant;

(2) Issues of the application;

(3) Justification of the application.

Article 9 BOFT shall decide whether to hold the public hearing within 15 days after the receipt of the application for the public hearing submitted by interested parties, and shall notify all interested parties, including the public hearing applicant.

Article 10 The notification issued by BOFT deciding to hold a public hearing shall include the following items:

(1) Decision of holding the public hearing;

(2) Reasons for holding such public hearing;

(3) Timing, venue and relevant requirements for the registration by interested parties prior to the hearing;

(4) Other matters.

Article 11 After the receipt of the notification of holding a public hearing, each interested party shall register with BOFT in line with requirements in the notification..

Article 12 BOFT shall, within 20 days from the ending date specified in the notification of holding the public hearing, make decision on issues of timing, venue, chairperson and agenda of the hearing, etc. and notify the interested parties who have registered.

Article 13 The chairperson of a public hearing may exercise the following functions and powers during the hearing:

(1) To preside over the hearing and monitor its progress;

(2) To confirm the identities of the hearing attendants;

(3) To maintain the hearing order;

(4) To raise questions to each interested parties;

(5) To decide whether to permit relevant interested parties to provide supplementary evidence;

(6) To decide whether to suspend or terminate the hearing;

(7) Other matters needed to be decided during the hearing.

Article 14 An interested party to attend the public hearing may send its legal representative or persons in charge to be present in the hearing , or may do so by appointing 1or 2 agents.

Article 15 An interested party to attend the public hearing shall bear the following obligations:

(1) To arrive at the designated place and be present in the hearing in time;

(2) To abide by the disciplines of the hearing and follow the instruction of the chairperson of the hearing.

Article 16 The public hearing shall get through the following procedure:

(1) The chairperson of the hearing announces the commence of the hearing, and reads the disciplines of the hearing;

(2) Confirmation of the identities of the hearing attendants;

(3) Interested parties' presentations;

(4) Inquiry made by the chairperson over interested parties:

(5) Final presentations made by interested parties;

(6) The chairperson announces the closure of the hearing.

Article 17 The public hearing is aimed at providing an opportunity for the interested parties to fully present their view, and does not set debating procedure.

Article 18 Records of words shall be maintained during the hearing, and the chairperson, the recorder, the interested parties attending the hearing shall sign or seal the records of words on the spot. In case the interested parties refuse to do so, the chairperson of the hearing shall make remarks on the records of words of the hearing indicating such situation.

Article 19 In case one of the following circumstances takes place, the public hearing may be postponed or cancelled upon the decision made by BOFT:

(1) An event or a conduct happened to the hearing applicant due to force majeure, and the hearing applicant has submitted written request for postponing or cancelling the hearing.

(2) The antidumping investigation has been terminated;

(3) Other matters happened so as to justify the postponing or cancellation of the hearing.

Article 20 After the cause of postponing the hearing has been eliminated, BOFT shall resume the hearing procedure and notify the interested parties who have registered.

Article 21 The notification referred to in these Rules is issued in the form of the Public Notice of MOFTEC; under special circumstances, BOFT may take other forms.

Article 22 The working language used in the hearing is Chinese.

Article 23 MOFTEC shall be responsible for interpretation of these Rules.

Article 24 These Rules shall enter into force from the date of promulgation.

Provisional Rules on On-the-spot Verification In Anti-Dumping Investigations

Article 1 With a view to regulating the procedure of on-the-spot verification in anti-dumping investigations, these Rules are formulated in accordance with provisions of the "Anti-Dumping Regulation of the People's Republic of China".

Article 2 The Ministry of Foreign Trade and Economic Co-operation (hereinafter referred to as MOFTEC) delegates the Bureau of Fair Trade for Imports and Exports to be responsible for implementation of these Rules.

Article 3 The on-the-spot verification provided for in these Rules refers to the procedure under which MOFTEC dispatches its officials to the relevant exporting countries (regions) during the process of the investigation to verify the genuineness, accuracy and completeness of the information and materials submitted by the exporters and producers concerned, and to collect further information and materials needed for the anti-dumping investigation.

Article 4 MOFTEC carries out the on-the-spot verification only on those exporters and producers of the relevant exporting countries (regions) who have been fully cooperative in the investigation.

Article 5 The on-the-spot verification is mainly to verify the information and materials submitted by the exporters and producers, including:

(1) All information and materials in the response to the questionnaire submitted by the exporters and producer;

(2) Information and materials contained in the response to the supplementary questionnaire submitted by the exporters and producers upon the requirement by MOFTEC;

(3) Information and materials submitted to MOFTEC by the exporters and producers on their own initiative;

(4) Other information and materials that MOFTEC considers necessary to verify.

Article 6 MOFTEC may decide, depending upon various situations of each case, whether to carry out an on-the-spot verification.

Article 7 MOFTEC normally carries out on-the-spot verification after the preliminary determination is made, and may also carry out the verification before the preliminary determination is made, depending upon various situations of each case.

Article 8 Having decided to carry out an on-the spot verification, MOFTEC shall notify in advance the exporters and producers who are to be verified, and the governments of the countries (regions) where the exporters and producers to be verified are located.

Article 9 Before the on-the-spot verification is conducted, MOFTEC shall obtain explicit agreement from the exporters and the producers concerned.

Article 10 Where the on-the-spot verification is agreed by the exporters and producers concerned, MOFTEC shall notify the governments of the countries (regions) where the exporters and producers to be verified are located of names, addresses of the exporters and producers to be verified, the schedule

agreed upon for the verification, and other relevant information.

MOFTEC shall not carry out an on-the-spot verification if the government of the countries (regions) where the exporters and producers concerned are located objects to it.

Article 11 Prior to the on-the-spot verification, MOFTEC shall notify in advance the exporters and producers in question of the concrete timetable for the verification.

Article 12 The verifying team shall be organized by MOFTEC, and normally consists of the government officials in charge of the anti-dumping investigation.

In exceptional circumstances, MOFTEC may invite non-governmental experts to take part in the on-the-spot verification, provided that the exporters and producers to be verified and the governments of the countries (regions) where they are located are so informed in advance. Such non-governmental experts shall strictly abide by the obligation of confidentiality.

Article 13 The verifying team shall, prior to the on-the-spot verification, notify the exporters and producers in question of the general nature of the information to be verified, and of any further information which needs to be collected.

The verifying team may, where it considers necessary, issue a detailed list of questions for the verification to the exporters and producers in question prior to the verification.

Article 14 The exporters and producers in question shall well prepare all evidence and materials supporting the information contained in the response to the questionnaire and supplementary questionnaire and shall make them available for the verification.

If the original records of evidence and materials mentioned in the previous Paragraph of this Article are stored in the format of electronic data under a particular computer programme, the exporters and producers in question shall guarantee that such computer programme is workable and that the electronic data can be copied and printed.

Article 15 The exporters and producers subject to the verification shall co-operate actively with the verifying team during the on-the-spot verification and make the staff originally responsible for the preparation of the response to the questionnaire and other staff concerned available and able to explain any questions raised by the verifying team.

Article 16 The working language for the verification is Chinese, or any other language the verifying team agrees to use.

Article 17 The verifying team may, depending upon the complicatedness of the case, take a comprehensive approach or a sampling approach to conduct its verification.

Article 18 The on-the-spot verification may be carried out within the scope previously notified, but such scope shall not impede the verifying team to request on the spot further information and materials on the basis of the obtained information and materials.

Article 19 MOFTEC shall, within a reasonable period after the verification is completed, disclose the result of the verification to the exporters and producers subject to the verification. MOFTEC may disclose a summary of the result of the verification to other interested parties upon their requests provided that the confidential information of the exporters and producers is not involved in such disclosure.

Article 20 The information and materials provided in the response to the

questionnaire and supplementary questionnaire, and the information and materials further collected during the verification will constitute the basis for MOFTEC to determine the dumping and the dumping margin.

Article 21 Under one of the following circumstances, MOFTEC may make determination of dumping and dumping margin on the basis of facts available and the best information available:

(1) The exporters or producers concerned reject the on-the-spot verification;

(2) The government of the countries (regions) where the exporters and producers to be verified are located objects to the on-the-spot verification;

(3) The exporters or producers fail to actively co-operate in line with the requirement reasonably made by the verifying team;

(4) The verification fails to be completed as scheduled due to the delay caused by the exporters or producers in question;

(5) Serious problems are discovered during the verification with respect to the genuineness, accuracy and completeness of the information and materials provided by the exporters and producers in question;

(6) There exists obvious fraud or concealment conducted by the exporters and producers in question;

(7) Other activities that impede the on-the-spot verification.

Article 22 In case the export price is constructed in an anti-dumping investigation, or where MOFTEC considers necessary, MOFTEC may carry out an on-the-spot verification on the domestic importers of the product under investigation. Such verification shall be carried out by reference to these Rules.

Article 23 Upon request by the exporters and producers concerned while the governments of the countries (regions) where they are located has no objection, MOFTEC may dispatch its staffs to the exporting country (region) to explain the questionnaire of the anti-dumpling investigation.

Article 24 MOFTEC shall be responsible for interpretation of these Rules.

Article 25 These Rules shall enter into force from the date of 15 April 2002.

Provisional Rules on Price Undertakings In Antidumping Investigations

Chapter 1 General Provisions

Article 1 With a view to ensuring reasonability and effectiveness of the application of antidumping measures, these Rules are formulated in accordance with provisions of the "Antidumping Regulation of the People's Republic of China".

Article 2 The Ministry of Foreign Trade and Economic Cooperation (hereinafter referred to as MOFTEC) delegates the Bureau of Fair Trade for Import and Export to be responsible for implementation of these Rules.

Article 3 The term "Price Undertakings" mentioned in these Rules refers to as undertakings voluntarily offered to MOFTEC by exporters and producers who have responded to an antidumping investigation by way of revising prices or ceasing exports of the product under investigation at dumped prices, and accepted by MOFTEC, in order to suspend or terminate the said investigation.

Chapter 2 Offer of Price Undertakings

Article 4 The responding exporters and producers may offer a price undertaking to MOFTEC; MOFTEC may also suggest the responding exporters and producers to offer the price undertaking.

Article 5 MOFTEC shall not force relevant exporters and producers to enter into any price undertaking. The fact that exporters and producers do not offer a price undertaking or do not accept the suggestion of such price undertaking shall in no way prejudice the consideration of its dumping and dumping

margin.

Article 6 The offer of a price undertaking shall be made no later than 45 days after the preliminary determination is publicly announced.

Article 7 MOFTEC shall not suggest exporters and producers to offer a price undertaking or accept such undertaking from exporters and producers unless a preliminary affirmative determination of dumping and injury caused by such dumping is made.

Article 8 Where an offer of a price undertaking contains confidential information, exporters and producers making the offer may file an application to MOFTEC for confidentiality treatment for that information, and shall provide a non-confidential summary for that confidential information.

Article 9 MOFTEC shall notify other interested parties of a price undertaking offered upon the receipt of it from exporters and producers concerned, and shall provide a non-confidential version of such undertaking for them to make comments thereon. Such comments shall be in written form and submitted within the period stipulated in the notification.

Chapter 3 Acceptance or Non-acceptance of Price Undertakings

Article 10 MOFTEC, while considering acceptance of a price undertaking offered, shall examine the following factors:

(1) Whether the injury caused by dumping can be eliminated;

(2) Whether there exist effective measures to monitor its fulfilment;

(3) Whether such acceptance is consistent with public interests of the People's Republic of China;

(4) Whether there exists any possibility of circumvention;

(5) Other factors MOFTEC considers necessary to examine.

Article 11 MOFTEC only accepts the price undertaking offered by exporters and producers who have been fully cooperative during the period of investigation.

Article 12 Where a price undertaking offered by exporters and producers is considered acceptable, MOFTEC may, after consulting with the State Economic and Trade Commission, decide to suspend or terminate the antidumping investigation on the exporter and producer making the undertaking.

A Public Notice of the decision for suspension or termination of the antidumping investigation shall be given by MOFTEC.

Article 13 Where the acceptance of a price undertaking offered is considered impractical or inappropriate, MOFTEC shall notify the exporters and producers offering such undertaking of reasons for such non-acceptance, and give them full opportunity to make comments thereon.

The decision of non-acceptance of a price undertaking and reasons shall be explicitly written in the final determination.

Chapter 4 Content, Duration and Monitoring of Fulfilment Of Price Undertakings

Article 14 A price undertaking shall contain, but not limited to, the following items:

(1) Scope of product;

(2) Reference prices, including price establishment, form of price increase, margin of price increase, price adjustments at different stages;

(3) Reporting obligation;

(4) Explicit intent of acceptance of on-the-spot verification;

(5) Guaranty of non-circumvention of the price undertaking;

(6) Other content MOFTEC considers necessary to contain.

Article 15 The level of the price increase under a price undertaking shall be equivalent to the dumping margin established in the preliminary determination; where the level of the price increase under a price undertaking is less than the dumping margin established but adequate to remove the injury to the domestic industry, such price increase may be less than dumping margin.

Article 16 A price undertaking shall become effective from the date of Public Notice given by MOFTEC with respect to the decision of suspension or termination of the antidumping investigation, and shall remain in force for 5 years.

Where MOFTEC only accepts an undertaking from a proportion of exporters and producers who have responded to the investigation, the duration specified in the preceding Paragraph of this Article shall start from the date of completion of the antidumping investigation on other exporters and producers who are not subject to the undertaking.

Article 17 MOFTEC may take the following ways to monitor the fulfilment of a price undertaking:

(1) To require the exporter and producer from whom an undertaking is made to provide periodically information relevant to the fulfilment of such an undertaking, including actual quantity and price of exports, name of importers, etc.;

(2) To verify periodically with the Customs data of exports of the product

under investigation to the People's Republic of China made by the exporter and producer from whom the undertaking is made

(3) To carry out periodically or non-periodically on-the-spot verification on the exporter and producer from whom the undertaking is made;

(4) To collect and verify information with domestic importers of the exporter and producer making the undertaking;

(5) Other ways MOFTEC considers appropriate to take.

Article 18 After an antidumping investigation is suspended or terminated pursuant to the Paragraph 1 of Article 33 of the "Antidumping Regulation of the People's Republic of China", the investigating authorities may decide continuation of the investigation on dumping and injury if relevant exporters and producers so request or the investigating authorities consider it necessary.

Article 19 Where an investigation is continued pursuant to Article 18 of these Rules, the price undertaking shall remain effective if the investigation results in an affirmative determination of dumping and injury.

Article 20 Where an investigation is continued pursuant to Article 18 of these Rules, the price undertaking made by relevant exporters and producers shall automatically lapse if the investigation results in a negative determination of dumping.

If the investigation results in a negative determination of injury, the antidumping investigation shall be terminated and the price undertaking made by exporters and producers shall also automatically lapse in accordance with provision of Paragraph 2 of Article 27 of the "Antidumping Regulation of the People's Republic of China".

Article 21 Where an investigation is continued pursuant to Article 18 of

these Rules, if the investigating authorities did not make an affirmative determination of either dumping or injury due to the existence of a price undertaking, MOFTEC may decide to maintain the undertaking for a reasonable period.

Chapter 5 Cancellation, Withdrawal and Violation Of Price Undertakings

Article 22 In case MOFETEC considers it no longer consistent with public interests of the People's Republic of China to continue the fulfilment of a price undertaking, MOFTEC may cancel the decision of accepting such an undertaking.

Article 23 MOFTEC shall, within a reasonable period prior to the date on which the cancellation becomes effective, notify exporters and producers from whom the undertaking is made of the intent of the cancellation, and shall give them full opportunity to make comments thereon.

Article 24 Exporters and producers making a price undertaking may withdraw their undertaking at any time during the period that the undertaking remains in force, provided that such withdrawal has been submitted to MOFTEC 30 days prior to its carry-out.

Article 25 Where MOFTEC decides to cancel the decision of accepting a price undertaking, or exporters and producers making the price undertaking withdraw their undertaking, MOFTEC shall notify the Customs of applying the provisional antidumping measures according to the original preliminary determination from the date on which such cancellation or withdrawal becomes effective, and shall resume immediately the antidumping investigation.

In case the original antidumping investigation has been completed and dumping margin been finally established for that exporter and producer

making the undertaking, definitive antidumping duties shall be levied from the date on which such cancellation or withdrawal becomes effective.

Article 26 A price undertaking is violated if one of the following circumstances take places:

(1) Exporters and producers subject to a price undertaking effect their exports at a price less than undertaken;

(2) The exporters and producers in question fail to provide periodically information relevant to the fulfilment of the undertaking in accordance with terms under the undertaking;

(3) The exporters and producers in question refuse to permit MOFTEC to verify data and other information they have provided;

(4) Data and other information the exporters and producers in question have provided relevant to the fulfilment of the undertaking are seriously inaccurate;

(5) The existence of obvious circumvention;

(6) Other activities violating the price undertaking.

Article 27 In case exporters and producers making a price undertaking violate their undertaking, MOFTEC shall immediately resume the antidumping investigation, and immediately apply provisional antidumping measures using the best information available.

If the final determination establishes the existence of dumping, definitive antidumping duties shall be levied in accordance with provisions of Article 38 of the "Antidumping Regulation of the People's Republic of China", and definitive duties may be levied retrospectively on products under investigation imported not more than 90 days before the application of provisional

antidumping measures, provided that such retrospective assessment shall not apply to imports entered before the violation of the undertaking.

If the definitive antidumping duty established in the final determination is higher than the amount of cash deposit established in the preliminary determination, the difference shall be levied. If the definitive antidumping duty established in the final determination is lower than the amount of cash deposit established in the preliminary determination, the difference shall be refunded.

Article 28 Where exporters and producers making a price undertaking violate their undertaking, if the original antidumping investigation has been completed and dumping margins been established for such exporters and producers violating the undertaking, definitive antidumping duties shall be levied immediately in accordance with provisions of Article 38 of the "Antidumping Regulation of the People's Republic of China", and definitive antidumping duties may be levied retrospectively on products under investigation imported not more than 90 days before the application of provisional antidumping measures, provided that such retrospective assessment shall not apply to imports entered before the violation of the undertaking.

Chapter 6 Supplementary Provisions

Article 29 Price undertakings may be concluded between MOFTEC and the government of relevant exporting countries (regions).

Article 30 Any price undertaking shall be notified to the Committee on Antidumping Practices of World Trade Organization within 7 days following its entering into force.

Article 31 MOFTEC is responsible for interpretation of these Rules.

Article 32 These Rules shall enter into force from date of 15 April 2002.

Provisional Rules on Interim Review of Dumping and Dumping Margin

Article 1 With a view to ensuring fairness, justice and openness of antidumping interim review, these Rules are formulated in accordance with provisions of the "Anti-dumping Regulation of the People's Republic of China".

Article 2 The Ministry of Foreign Trade and Economic Co-operation (hereinafter referred to as "MOFTEC") delegates the Bureau of Fair Trade for Imports and Exports to be responsible for implementation of these Rules.

Article 3 These Rules apply, during the period that anti-dumping measures are effective, to reviews on the necessity of whether to continue those measures under the original form and at the original level given the facts that the normal value and export price have changed since the anti-dumping measures entered into force (hereinafter referred to as "interim review").

Article 4 MOFTEC may initiate an interim review upon application.

Where MOFTEC does not receive an application for interim review but has reasonable ground for interim review, MOFTEC may, after consulting with the State Economic and Trade Commission, initiate an interim review on its own initiative.

Article 5 Domestic industries or natural person, legal person and other organizations representing the domestic industry (hereinafter referred to as "domestic industry"), or exporters and producers of the exporting countries (regions) concerned, and domestic importers may all be entitled to file an application with MOFTEC for interim reviews.

Article 6 The application for an interim review shall be filed within 30 days from the date after each single year has elapsed following the anti-dumping measures entering into force.

An application for an interim review on the determination of the previous review shall be filed within 30 days from the date after one year has elapsed following the determination of review entering into force.

Article 7 The exporters and producers applying for interim reviews shall be the one who have exported to China the product subject to the anti-dumping measures (hereinafter referred to as "product under investigation") within a period of 12 months prior to the application.

The export referred in the previous Paragraph of this Article shall be made in sufficient quantities so as to constitute the basis to determine export prices. Such quantities shall be established on the basis of transaction volume under the normal commercial conditions of the product under investigation.

Article 8 Where the original anti-dumping measure is the imposition of anti-dumping duty, the export which is not subject to the anti-dumping duty shall not be the basis for the application of interim reviews.

Article 9 The application for an interim review submitted by exporters or producers shall be in a written form, and signed by the legal representative or his/her authorized person.

The application for interim review submitted by the exporters or producers shall include the following evidence and materials.

(1) Applicant's name, address and other relevant information;

(2) Data of domestic sales made by the applicant 12 months prior to the application;

(3) Data of exports to China made by the applicant 12 months prior to the application;

(4) All adjustments necessary for calculation of dumping margin and preliminary result of dumping margin calculation;

(5) Other information that applicant considers necessary to address.

The submission of materials mentioned in Subparagraphs 1 to 4 of the above Paragraph of this Article should be, with respect to the content and the form, in line with requirements specified in the original anti-dumping questionnaire.

Article 10 The application filed by the exporters and producers for an interim review shall be classified into confidential version (if the applicant requests for confidentiality treatment) and non-confidential version. 1 original application and 6 copies shall be submitted for both the confidential version and the non-confidential version respectively.

Article 11 MOFTEC shall, within 7 working days upon the receipt of the application for the interim review from exporters or producers, notify the applicant of the original antidumping investigation; the original applicant may, within 21 days after being notified, make comments on whether such review shall be initiated.

Article 12 Where domestic industry files an application for an interim review, the evidence and materials provided by the domestic industry concerning dumping and the applicant’s standing shall be in conformity with provisions of Articles 14, 15 and 17 of the “Anti-dumping Regulation of the People's Republic of China”.

Article 13 The application for an interim review filed by the domestic industry may cover all exporters and producers in all or only a proportion of exporting countries (regions) involved in the original anti-dumping

investigation, or it may also limit expressly the scope of review to some specified exporters and producers.

Article 14 The formality of the application for an interim review filed by the domestic industry shall be in line with Article 10 of these Rules.

Article 15 Upon the receipt of the application for an interim review filed by the domestic industry, MOFTEC shall, within 7 working days, provide to the representative institute of the exporting countries (regions) concerned in China a non-confidential version and a non-confidential summary of the confidential information of the application for the review.

Article 16 The exporters and producers may comment on whether a review shall be initiated within 21 days after MOFTEC has provided to the representative institute of the exporting countries (regions) concerned in China the non-confidential version and the non-confidential summary of the confidential information of the application for the review.

Article 17 The application for interim review filed by importers shall comply with relevant provisions specified in Articles 9 and 10 of these Rules concerning application for interim reviews filed by the exporters and producers.

Article 18 Where the importer is not related to the exporters and producers concerned, and thereby cannot immediately obtain the evidence and materials concerning the normal value and export price specified in Article 9 of these Rules, or the exporters and producers concerned do not agree to provide the above-mentioned evidence and materials to the importer, the importer in question shall provide a statement made by the exporters and producers, in which the exporters and producers concerned have explicitly expressed that the dumping margin has been reduced or eliminated, and the relevant evidence and materials will be submitted directly to the MOFTEC under the form and

the content as required and specified within 30 days from the date on which the application for the review is filed by the importer.

Article 19 The evidence and materials which the exporters and producers concerned submit according to Article 18 of these Rules shall comply with provisions of Article 10 of these Rules.

Article 20 MOFTEC shall, within 7 working days upon the receipt of the application for the interim review from importer, notify the applicant of the original antidumping investigation; the original applicant may, within 21 days after being notified, make comments on whether such review should be initiated.

Article 21 MOFTEC shall, within 7 working days upon the receipt of the application for an interim review, forward 1 copy of confidential version of the application attaching relevant evidence and materials and 1 copy of non-confidential version of the application to the State Economic and Trade Commission.

The State Economic and Trade Commission shall have at least 20 days to examine the application and relevant evidence and materials, and present views thereon.

Article 22 MOFTEC shall normally make a decision of whether to initiate a review investigation within 60 days upon the receipt of the application for the interim review.

Article 23 Having found, through examination, that the application for the interim review and the attached evidence and materials are not in conformity with provisions of these Rules, MOFTEC may require the applicant provide additional information and make amendment within a specified period of time. If the applicant fails to provide additional information and make amendment

within the time limit, or after being supplemented or amended, the application does not yet comply with the requirements under these Rules, MOFTEC may reject the application, and notify the applicant in writing and give reasons for that rejection.

Article 24 MOFTEC shall give a Public Notice upon its decision made to initiate an interim review. The Public Notice shall contain the following information:

(1) Description of the product to be investigated;

(2) Name of exporters, producers to be investigated and name of the countries (regions) or countries (regions) of origin;

(3) Date of initiation of the review;

(4) Investigation period for review;

(5) Summary of grounds on whether dumping margin is increased or reduced, or eliminated;

(6) Time limit for interested parties to comment and to submit the relevant information;

(7) Intent of the investigating authority to carry out an on-the-spot verification;

(8) Potential result for non-cooperation by relevant interested parties.

(9) Ways to contact the investigating authority.

Article 25 Where exporters and producers file an application for interim review, the investigation of the review shall be limited only to the normal value, export prices and dumping margin of the product under investigation of the applicant.

Article 26 Where the domestic industry files an application for interim review, the investigation of the review shall cover the normal value, export prices and dumping margin of the product under investigation of all exporters and producers concerned of the countries (regions) specified in the application. Those exporters and producers, whose dumping margins were determined as zero or de minimis in the original anti-dumping investigation, shall also be subject to the review investigation.

Where the domestic industry file an application for interim review only on some individual exporter and producer in exporting countries (regions) of the original antidumping investigation, MOFTEC may focus its investigation only on the normal value, export prices and dumping margin of the product under investigation of the aforesaid exporter and producer.

Article 27 Where the importer applies for an interim review, the investigation of the review shall be limited only to the normal value, export prices and dumping margin of the product under investigation of the exporters and producers who have stated to submit relevant evidence and materials to MOFTEC.

Article 28 The period of investigation for an interim review is the 12 months prior to the submission of the application for the review.

Article 29 In case where the number of exporters and producers, the type of products or transactions is so large that it would be unduly burdensome and thereby would impede the investigation to be completed timely to determine a separate dumping margin to each individual exporters and producers or to investigate all types of products or all transactions, MOFTEC may use sampling method for the investigation in accordance with provisions of the "Provisional Rules of Ministry of Foreign Trade & Economic Cooperation for Anti-dumping Investigation by Sampling".

Article 30 The establishment, adjustments and comparison of normal value and the export price and the calculation of dumping margin in the investigation of interim review shall be in conformity with provisions of Articles 4, 5 and 6 of the "Anti-dumping Regulation of the People's Republic of China".

Article 31 During the investigation of interim review, where the export price is constructed on the basis of the price at which the imported product is resold to the first independent purchaser, and where the exporters or producers provide sufficient evidence to prove that the anti-dumping duty has been duly reflected in the price at which the imported products are resold to the first independent purchaser and in the price for the consequent sales in China, MOFTEC shall not deduct the amount of anti-dumping duty paid while calculating the constructed export price.

Article 32 MOFTEC may, according to the "Provisional Rules of Ministry of Foreign Trade & Economic Cooperation on On-the-spot Verification in Anti-dumping Investigations", conduct an on-the-spot verification on the accuracy and completeness of the information and materials provided by the exporters and producers.

Article 33 Preliminary determination does not need to be made in interim reviews. However, after having got preliminary conclusion of the investigation, MOFTEC shall disclose facts and reasons on which the preliminary conclusion is based in accordance with Paragraph 2 of Article 25 of the "Anti-dumping Regulation of the People's Republic of China" and "Provisional Rules of Ministry of Foreign Trade & Economic Cooperation on Disclosure of Information in Anti-dumping Investigations", and shall give no less than 10 days to the interested parties for making comments and submitting additional information.

Article 34 The review applicant shall not withdraw its application after the preliminary conclusion of the investigation for interim review, the facts and reasons on which such preliminary conclusion are based have been disclosed.

Article 35 The exporter may offer a price undertaking within 15 days after the preliminary conclusion of the investigation for interim review, the facts and reasons on which the preliminary conclusion are based have been disclosed.

If MOFTEC decides to accept the price undertaking offered after consulting with the State Economic and Trade Commission, MOFTEC shall, in accordance with relevant provisions of Article 33 of the "Anti-dumping Regulation of the People's Republic of China", submit a proposal to the Customs Tariff Commission of the State Council. The Customs Tariff Commission of the State Council shall make a decision thereof upon the proposal submitted by MOFTEC. Such decision shall be published in the Public Notice by MOFTEC.

Article 36 The interim review shall be completed within 12 months from the date of its initiation.

Article 37 MOFTEC shall, 15 days prior to the end of the review investigation, submit a proposal to the Customs Tariff Commission of the State Council for retaining, amending or removing the anti-dumping duty, and shall, according to the decision made by the Customs Tariffs Commission of the State Council, give a Public Notice before the review investigation is ended.

Article 38 During the course of interim review, the original anti-dumping measures shall remain in force. The determination of the review shall enter into force from the date on which the Public Notice for the determination of the review is given, without retroactive assessment.

Article 39 Where an investigation of interim review, having been applied by exporters, producers and importers concerned one year prior to the expiration of the anti-dumping measure, is not completed at the end of the validity of the anti-dumping measure, meanwhile, neither the domestic industry applies for sunset review nor MOFTEC decides to initiate such sunset review on its own initiative, MOFTEC shall give a Public Notice to terminate the ongoing interim review and the application of the anti-dumping measure.

Article 40 Where an interim review, having been applied by domestic industry one year prior to expiration of the anti-dumping measures, is not completed by the expiration of the anti-dumping measure, MOFTEC may regard it as the domestic industry has already filed an application for sunset review, and may initiate the sunset review by giving a Public Notice. MOFTEC may combine the interim review and sunset review and make a determination simultaneously.

Article 41 MOFTEC shall be responsible for interpretation of these Rules.

Article 42 These Rules shall enter into force from the date of 15 April 2002.

Provisional Rules on New Shipper Review In Anti-dumping Investigations

Article 1 With a view to ensuring fairness, justices and openness in antidumping new shipper reviews, these Rules are formulated in accordance with provisions of the "Anti-dumping Regulation of the People's Republic of China".

Article 2 The Ministry of Foreign Trade and Economic Co-operation (hereinafter referred to as "MOFTEC") delegates the Bureau of Fair Trade for Imports & Exports to be responsible for implementation of these Rules.

Article 3 These Rules apply to reviews for determination of individual anti-dumping duty rate requested by those exporters and producers (hereinafter referred to as "new shippers") of the countries (regions) concerned after the original anti-dumping measures have entered into force, who did not export the product under investigation to the People's Republic of China during the original period of investigation.

Article 4 The applicant for new shipper review shall in no way be related to the exporters and producers who have exported the product under investigation to the People's Republic of China during the original period of investigation.

Where the applicant for new shipper review is a trading company, additional to the provisions in the above Paragraph of this Article to be complied with, its suppliers shall also in no way be the exporters and producers who have exported the product under investigation to the People's Republic of China during the original investigation period or have relationship with the above-mentioned exporters and producers.

Article 5 The applicant for new shipper review must be the party who has actually exported the product under investigation to the People's Republic of China after the original period of investigation.

The export mentioned in the preceding Paragraph of this Article shall be made in sufficient quantities so as to constitute the basis for determination of the ordinary export price. Such quantities shall be established on the basis of transaction volume under the normal commercial conditions of the product under investigation.

Article 6 Where the original anti-dumping measure is the imposition of anti-dumping duty, the export which is not subject to the anti-dumping duty shall not be the basis for the application of new shipper review.

Article 7 The applicant for new shipper review may file its application only after the final determination in the original investigation has come into force, and the date on which the application is filed shall not be later than 30 days after the actual export.

The application for new shipper review on the actual export made after the original period of investigation and before the final determination is not subjected to the preceding Paragraph of this Article. However it still shall be filed nevertheless within 3 months after the final determination of the original investigation is made.

The date for actual exports shall be established on the basis of the invoicing date.

Article 8 The application for new shipper review shall be filed in a written form, and shall be formally signed by the legal representative of the applicant or his/her authorized person.

Article 9 The following evidence and materials shall be attached to the

application for new shipper review:

(1) Name, address and relevant information of the applicant;

(2) Structure of company and names of related companies;

(3) Average sales price, number of transactions and total value of domestic sales, average export price, number of export transactions and total export value to the People's Republic of China, average export price, number of transactions and total export value to the third countries (regions) of the product under investigation during the last 6 months prior to the application;

(4) Copy of contracts, commercial invoices, bills of lading and certificates of payment indicating the effect of exports of product under investigation to the People's Republic of China as well as documentary evidence of payment of anti-dumping duty effected by the importer;

(5) Other information that the applicant considers necessary to address.

Article 10 The application shall be classified into confidential version (under the condition that the applicant requests for confidentiality treatment) and non-confidential version. One original application and six copies shall be submitted for the confidential version and the non-confidential version respectively.

Article 11 MOFTEC shall, within 7 working days upon the receipt of the application for new shipper review, notify the applicant of the original anti-dumping investigation. The applicant of the original anti-dumping investigation may make comments on whether MOFTEC should initiate the review within 14 days after being notified.

Article 12 MOFTEC shall make a decision on whether to initiate the review

within 30 working days from the date of receipt of the application, the evidence and materials attached.

Article 13 MOFTEC shall notify the applicant in writing and give reasons of not initiating the review if it so decides.

Article 14 MOFTEC shall give a Public Notice for initiation of new shipper review where it so decides.

The Public Notice of initiation shall contain the following information:

(1) Description of the product to be investigated;

(2) Name of exporters and producers to be investigated, and name of their countries (regions);

(3) Date of initiation;

(4) Period of review;

(5) Time limits for interested parties to make comments and to submit relevant materials;

(6) Intent of the investigating authorities to carry out on-the-spot verification;

(7) Consequence of non-cooperation by interested parties.

(8) Ways of communication with the investigating authorities.

Article 15 MOFTEC shall, before the issuance of the Public Notice of initiation of the review, notify the Customs to suspend, from the date of the Public Notice, the imposition of anti-dumping duty on the product under investigation to be exported by the applicant, but nevertheless shall require the importer of the product under investigation exported by the applicant provide cash deposit at a rate corresponding to the anti-dumping duty rate applied to

"other companies" as specified in the original anti-dumping final determination.

Article 16 The investigation period for new shipper review shall be 6 months prior to the submission of the application.

Article 17 If necessary, MOFTEC may conduct its investigation by issuing questionnaire to the applicant of the new shipper review, the procedure of which shall be in line with provisions of the "Provisional Rules of Ministry of Foreign Trade & Economic Cooperation on Questionnaires in Antidumping Investigations ".

Article 18 The normal value, export price and dumping margin of the imported product shall be determined in accordance with provisions of Articles 4, 5 and 6 of the "Anti-dumping Regulation of the People's Republic of China".

Article 19 Where the export price is constructed on the basis of the price at which the imported product is resold to the first independent purchaser, if the applicant can provide sufficient evidence to prove that the anti-dumping duty has been duly reflected in the price at which the imported products are resold to the first independent purchaser and in the price for the subsequent domestic sales, MOFTEC shall not deduct the amount of anti-dumping duty paid when calculating the constructed export price.

Article 20 MOFTEC may decide to carry out an on-the-spot verification on the accuracy and completeness of the evidence and materials provided by the applicant. Procedures for the on-the-spot verification shall be in line with provisions of the "Provisional Rules of Ministry of Foreign Trade & Economic Cooperation on On-the-spot Verification in Anti-dumping Investigations".

Article 21 Preliminary determination does not need to be made in new

shipper review. However, after having got preliminary conclusion of the investigation, MOFTEC shall disclose facts and reasons on which the preliminary conclusion is based, and shall give no less than 10 days to the interested parties for comments and for submitting additional materials.

Article 22 The applicant for new shipper review may offer a price undertaking to MOFTEC within 15 days from the date on which the preliminary conclusion is disclosed.

Article 23 Where MOFTEC considers that the price undertaking offered by the applicant of the review is acceptable, after consulting with the State Economic and Trade Commission, MOFTEC may decide to suspend or terminate the investigation of the review, and notify the Customs to terminate the imposition of anti-dumping duty on the product under investigation exported by such new shipper from the date on which the price undertaking comes into force.

The product under investigation exported by the new shipper after the initiation of review and before the enforcement of the price undertaking shall be subject to an anti-dumping duty which is equivalent to the amount of cash deposit having been provided

Article 24 The investigation for new shipper review shall be completed within 9 months from the date of initiation.

Article 25 MOFTEC shall submit to the Customs Tariff Commission of the State Council a proposal for anti-dumping duty to be applied to the applicant of the review 15 days prior to the end of the review investigation, and shall give a Public Notice according to the decision made by the Customs Tariff Commission of the State Council before the review investigation is ended.

Article 26 Where the review determination results in existence of dumping,

the antidumping duties shall be retroactively levied on the product under investigation which was exported by the applicant after the initiation of the review and before the determination of the review.

Where the anti-dumping duty determined by the review is higher than the cash deposit having been provided, the difference shall not be collected; where the anti-dumping duty is lower than the cash deposit, the difference shall be refunded.

Article 27 MOFTEC shall be responsible for interpretation of these Rules.

Article 28 These Rules shall enter into force from the date of 15 April 2002.

Provisional Rules on Refund of Anti-dumping Duty

Article 1 With a view to regulating the procedure for refund of anti-dumping duty, these Rules are formulated in accordance with provisions of the "Anti-Dumping Regulation of the People's Republic of China".

Article 2 The Ministry of Foreign Trade and Economic Co-operation (hereinafter referred to as "MOFTEC") delegates the Bureau of Fair Trade for Imports and Exports to be responsible for implementation of these Rules.

Article 3 Having evidence to prove that the anti-dumping duty paid is higher than the actual dumping margin, the importer of the dumped product may file an application with MOFTEC for antidumping duty refund in accordance with these Rules.

Article 4 The application for duty refund shall be filed not later than 3 months after the anti-dumping duty had been actually paid.

The application for duty refund concerning the product under investigation imported after the initiation of an anti-dumping investigation but before the final rulings shall not be subjected to the preceding Paragraph of this Article, but nevertheless shall be filed within 3 months after the final determination is made.

Article 5 The application for duty refund shall be filed in a written form, and be formally signed by the legal representative of the applicant or his/her authorized person.

Article 6 The application for duty refund shall be attached by the following

evidence and materials:

(1) Name, address and relevant information of the applicant and its supplier;

(2) Average domestic prices, number of transactions and total value of domestic sales; average export price, number of transactions and total export value to the People's Republic of. China; average export price, number of transactions and total sales value to the third country (region) during 6 months prior to the application.

(3) Data of normal value and export prices of the product under investigation during 6 months prior to the application;

(4) All adjustments necessary for calculation of margin of dumping and preliminary result of margin of dumping calculation;

(5) Copies of contracts, invoices, bills of lading, certificates of payment relating to import of the product concerned covered by the application for duty refund, and documentary evidence proving that anti-dumping duty has been paid by the applicant;

(6) Other information that the applicant considers necessary to address.

Article 7 The submission of the information specified in Subparagraphs 1 to 4 of Article 6 of these Rules shall be in accordance with the content and the form required by the original anti-dumping questionnaire .

The evidence and materials attached to the application shall include data of all models of the products subject to anti-dumping measures. The data of export price shall include all exports to the People's Republic of China made by the supplier of the applicant.

Article 8 Separate applications for duty refund shall be filed respectively with respect to each single supplier where several suppliers are concerned.

Article 9 Where the importer is not related to the exporter and producer, and the aforesaid evidence and materials cannot be directly provided by the importer, the application for duty refund shall include a statement made by the exporter and producer.

The statement mentioned in the previous Paragraph of this Article shall include the following items: margin of dumping of the product concerned has been reduced or eliminated, and relevant evidence and materials will be directly submitted to MOFTEC by the exporter and producer in conformity with the required content and form within 30 days from the date on which the application for duty refund is filed.

MOFTEC may reject the application for duty refund if the exporter and producer fails to submit the evidence and materials in accordance with the statement within the specified time limit.

Article 10 The application shall be classified into confidential version (in case where the applicant requests confidentiality treatment) and non-confidential version. 1 original and 6 copies shall be submitted for both the confidential version and the non-confidential version.

Article 11 MOFTEC may conduct an on-the-spot verification to examine accuracy and completeness of the evidence and materials submitted by the exporter and producer in accordance with the "Provisional Rules of Ministry of Foreign Trade & Economic Cooperation on On-the-spot Verification in Anti-dumping Investigations".

If the interested party objects to the verification, MOFTEC may make its determination on the basis of facts available or best information available, or otherwise reject the application.

Article 12 MOFTEC shall determine the normal value, export price and the

dumping margin of the product subject to the application for duty refund 6 months prior to the application in according with provisions of Articles 4, 5 and 6 of the "Anti-dumping Regulation of the People's Republic of China".

Article 13 Where the export price is constructed on the basis of the price at which the imported product is resold to the first independent purchaser, and where the applicant provides sufficient evidence to prove that the anti-dumping duty has been duly reflected in the resale price at which the imported products are resold to the first independent purchaser and subsequent domestic sales price, MOFTEC shall not deduct the amount of anti-dumping duty paid when calculating the constructed export price.

Article 14 Where it is found through examination that the dumping margin is not lower than originally determined, MOFTEC shall reject the application for duty refund.

Article 15 MOFTEC shall notify the applicant and explain the reason if the application is rejected.

Article 16 MOFTEC shall complete the review for duty refund within 12 months upon the receipt of the application.

Article 17 MOFTEC shall submit a proposal for duty refund to the Customs Tariff Commission of the State Council 15 days prior to the end of the investigation of review for duty refund, and shall notify the applicant and the Customs of the decision made by the Customs Tariff Commission of the State Council before such investigation of review is ended.

Article 18 The amount of duty refundable shall be the difference between the dumping margin determined in the original anti-dumping investigation and the dumping margin newly determined.

Article 19 The result of review for duty refund shall not affect the validity

of the original anti-dumping measures.

Article 20 Once having found through examination that the dumping margin has increased, MOFTEC may initiate an interim review on its own initiative.

Article 21 MOFTEC shall be responsible for interpretation of these Rules.

Article 22 These Rules shall enter into force from the date of 15 April 2002.

Provisional Rules on the Procedure of Adjustment to the Product Scope of Antidumping Investigation

Article 1 With a view to ensuring fairness, justices and transparency of antidumping investigation, the following rules are formulated in accordance with the relevant provisions of the “Antidumping Regulation of the People’s Republic of China”.

Article 2 According to Article 19, 24, 25, 29 and 38 of the “Antidumping Regulation of the People’s Republic of China”, Ministry of Foreign Trade and Economic Cooperation (hereinafter referred as MOFTEC) has the authority to determine the product scope of the antidumping investigation and the product scope subject to the antidumping measures (hereinafter referred as Product Scope) through the initiation notice of antidumping investigation and the notice of the determination of the antidumping investigation (hereinafter referred as Antidumping Notice).Custom will implement the relevant antidumping measures from the date of Antidumping Notice.

Article 3 After the publication of Antidumping Notice, any adjustment to Product Scope should be approved by MOFTEC through its formal notice, and Custom will implement the relevant antidumping measures from the date of such formal notice.

Article 4 The adjustment to Product Scope which is announced in Antidumping Notice shall be implemented in accordance with this Provisional Rules.

The procedure of adjustment includes the application by the applicant, the

acceptance of application, investigation, determination and publication of determination by MOFTEC.

Article 5 The application by the applicant

(1) After the publication of the initiation notice of antidumping investigation, if the interested parties disagree with the product scope under investigation, they shall apply for the adjustment to product scope to MOFTEC within the period stipulated in the initiation notice or any extension period granted by MOFTEC;

(2) After the publication of the notice of preliminary determination, if the interested parties disagree with the product scope subject to the antidumping measures, they shall apply for the adjustment to product scope to MOFTEC within the period stipulated in the initiation notice or any extension period granted by MOFTEC;

(3) Interested parties mentioned above include the petitioner of the antidumping investigation, foreign manufacturer, foreign exporter, importer and other organization, person with interests related to the investigation;

(4) The application shall be filed in written form.

Article 6 The application of adjustment shall include

(1) Identity and brief introduction of the applicant, the product applied for adjustment;

(2) Reasons for adjustment, and the supporting evidences;

(3) Descriptions of the product applied for adjustment; The description sequence is as follows: Custom code, physical characteristics, chemical characteristics, etc, which could disclose the unique and exclusive

characteristics of the product. If the above description could serve this purpose, the usage of the product shall be described in detail.

(4) Comparison on similarities and differences between the import product applied for adjustment and the domestic like product;

(5) Foreign manufacturer, foreign exporter, importer and downstream user;

(6) Seal or signature of the applicant's legal representative or other authorized persons.

Article 7 Procedure of the acceptance of application, investigation, determination and publication of determination by MOFTEC:

(1) MOFTEC checks the contents of the application and accepts the application which meets the requirements in Article 6;

(2) MOFTEC investigates and verifies the trueness of the application's content through questionnaire, verification visit and hearing, etc;

(3) MOFTEC investigates the rationality of the application's content, the claimed interests of the interested parties including the applicant, and the product descriptions.If necessary, the experts shall be employed for assistance;

(4) In accordance with the above procedure, MOFTEC may approve the adjustment to Product Scope if the application meets all the requirements. The adjustment shall be announced in the final determination of the antidumping investigation at the latest;

(5) MOFTEC has the authority to adjust Products Scope based on the materials provided by the interested parties, even if no application for adjustment is received.

Article 8 The product scope adjustment occurred in antidumping review investigation is implemented referring to this Provisional Rules.

Article 9 MOFTEC shall be responsible for interpretation of this Provisional Rules.

Article 10 This Provisional Rules shall enter into force upon 30 days after the date of promulgation.

（II）COUNTERVAILING

Provisional Rules on Initiation of Countervailing Investigations

Chapter 1 - General Provisions

Article 1. With a view to standardizing the procedures for application for, and initiation of, countervailing investigations, these Rules are formulated in accordance with "the Countervailing Regulation of the People's Republic of China".

Article 2. The Ministry of Foreign Trade and Economic Co-operation (hereinafter referred to as "MOFTEC") hereby appoints the Bureau of Fair Trade for Imports and Exports to implement these Rules.

Article 3. MOFTEC may initiate a countervailing investigation upon application or on its own initiative.

Chapter 2 - Standing of Applicant

Article 4. Any domestic industry or natural person, legal person or organization representing a domestic industry (hereinafter referred to as "the applicant") may file with MOFTEC an application for a countervailing investigation.

Article 5. "Domestic industry" refers to producers, as a whole, of the domestic like product in the People's Republic of China, or to those producers whose collective output of the domestic like product constitutes more than 50

percent of the total domestic production of the like product.

Article 6. In cases in which the collective output of the applicants accounts for less than 50 per cent of the total domestic production of the like product, the application shall be regarded as being made on behalf of the domestic industry only if it is supported by those domestic producers whose collective output constitutes more than 50 percent of the total production made by that portion of the domestic industry expressing either support or opposition to the application, and if the production of the domestic producers expressing support for the application accounts for no less than 25 percent of the total production of the like product.

The production of the applicant shall be included in the calculation to determine the output of the production of the domestic producers supporting the application as provided in paragraph 1 of this Article.

Article 7. In cases in which the domestic industry is diversely located and involves a large number of producers, MOFTEC may examine the standing of the applicant by using statistically valid sampling techniques.

Article 8. Any domestic producers that are related to exporters or importers of the subject merchandise, or are themselves importers of the subject merchandise, shall be excluded from the consideration of the domestic industry.

Article 9. The producers located in a specific region of the domestic market may be regarded as a separate industry if they sell all or almost all of their production of the like product in that market, and the demand for the like product in that market is not to any substantial degree supplied by the producers located elsewhere in China.

Chapter 3 - Application

Article 10. An application for a countervailing investigation shall be filed in a written form. The application shall contain a formal request to MOFTEC to initiate a countervailing investigation, and shall be sealed or signed by the applicant or by his legally authorized representative.

Article 11. The application for countervailing investigation shall contain the following information together with all relevant supporting materials:

(1) a description of the applicant and known domestic producers;

(2) a complete description of the subject merchandise, the domestic like product and a comparison between them;

(3) a description of known exporters or foreign producers of the subject merchandise, as well as any known importers and exporting countries or regions;

(4) a description of the domestic industry;

(5) a description of the alleged subsidy;

(6) a description of the alleged injury suffered by the domestic industry;

(7) demonstration of casual link between the alleged subsidy and injury;

(8) any other information that the applicant considers necessary to state.

Article 12. The description of the applicant shall include the applicant's name, address, telephone number, fax number, post code, its legal representative (if any) and the appropriate contact person.

In cases in which an attorney is appointed by the applicant, the attorney's name, his/her identity and other relevant information shall be specified and the power of attorney shall be provided.

The description of known domestic producers shall include the known domestic producer's name, address, post code, and any other relevant contact information.

Article 13..The description of the subject merchandise shall include the product name, type, specification, use, market condition and the Customs code of the People's Republic of China.

The description of the domestic like product shall include the product name, type, specification, use and market condition;

The comparison between the subject merchandise and the domestic like product shall include a comparison of physical characteristics, chemical nature, production technology, substitution and uses.

Article 14. The description of known exporters or foreign producers shall include the exporter or foreign producer's nationality, name, address and other relevant contact information.

The description of known importers shall include the name, address, post code and other relevant contacting information.

Article 15. The description of the domestic industry shall include the total annual production of the domestic like product in the last three years prior to the application, the annual production of the applicant in the last three years prior to the application and its percentage of the total domestic production.

Article 16. The description of the alleged subsidy shall include information regarding the existence, nature, and amount of the subsidy in question, as well as an estimated per-unit measure of the alleged subsidy.

The applicant shall provide the legal documentation of the exporting country or region pursuant to which the alleged subsidy is granted, and describe the

calculation of the per-unit estimated subsidy.

Article 17. The description of the injury suffered by the domestic industry shall include, inter alia, a description of the type of the injury (material injury, threat of material injury or material retardation of the establishment of a domestic industry), the fluctuations of the quantity and price of the imports of the subject merchandise, its effect on the price of the domestic like product, and the impact of the imports on the relevant economic factors and indices measuring the state of the domestic industry.

Article 18. Where an application is filed on the basis of material injury, the applicant shall provide evidence of the following:

(1) the increase in imports of the subject merchandise either in absolute volume or relative to the production and/or consumption of the domestic like product in the last three years prior to the application;

(2) the average price of sales in the domestic market of the subject merchandise and its pricing trends in the last three years prior to the submission of the application;

(3) the impact of imports of the subject merchandise on the price of the domestic like product, including any price undercutting of the domestic like product, any depressing and suppressing effect on the price of the domestic like product and the impact on price movements of the domestic like product;

(4) the impact of imports of the subject merchandise on the condition of the domestic industry, including the impact on the output, sales, market share, profits, productivity, return on investment, utilization of capacity, relevant factors affecting the domestic price, cash flow, employment, wages, growth, ability to raise capital or investment, and inventories of the

domestic industry. If the subject merchandise is an agricultural product, evidence pertaining to whether imports have led to increased usage of government support programs shall also be provided. To the extent that any of the factors or indices listed above are inapplicable, the applicant shall provide explanation of the inapplicability of the factor or index.

Article 19. Where an application is filed on the basis of threat to cause material injury, the applicant shall provide the evidence of injury including the following:

(1) a significant rate of increase in imports of the subject merchandise into the domestic market or the likelihood of substantially increased importation, including the current and potential export capacity and inventories of the exporting country or region.

(2) a change in circumstances in the factors and indices listed in subparagraph 4 of Article 18 of these Rules must be clearly foreseen and imminent.

Article 20. Where the application is filed with on the basis of material retardation of the growth of a domestic industry, the applicant shall not only provide the evidence listed in Article 19 of these Rules, but also evidence with regard to the planned or likely growth of the domestic industry and the steps for its actual implementation.

Article 21. The evidence of injury suffered by domestic industry shall be considered in relation to the production and pricing information available for the specific domestic like product that is identified. If such a comparison is not possible, the evidence of injury shall be considered in relation to the production and pricing information available for the narrowest group or range of products that includes the domestic like product.

Article 22. The applicant shall analyze and demonstrate the existence of a

causal link between imports of the subject merchandise and the injury claimed. In so doing, the applicant shall also explain the effect or contribution of other factors on the injury claimed, including the quantity and price of the imports of non-subject merchandise, contractions in demand, changes in the patterns of consumption, trade-restrictive practice of, and competition between, foreign and domestic producers, developments in technology, the export performance and productivity of the domestic industry. If certain of the above-listed factors are inapplicable, the applicant shall provide an explanation of the inapplicability.

Article 23. The applicant shall indicate all sources of supporting documents and other evidence submitted pursuant to this Chapter.

Article 24. If an application contains confidential materials, the applicant shall submit a request for confidential treatment, together with a non-confidential summary that is in sufficient detail to permit a reasonable understanding of the information submitted in confidence. In case where submission of a non-confidential summary is impossible, the applicant must provide an explanation of the reasons.

Article 25. If the supporting documents that are submitted are in a foreign language, the applicant shall provide both the full text of the foreign language document and a Chinese translation of the relevant parts of the text.

Article 26. Any application for initiation of a countervailing duty investigation must be submitted by the applicant in Chinese print. To the extent that there is standardized terminology that is used by the exporting country or region at issue, the standardized terms shall be used in the application.

Article 27. In cases in which the applicant requests confidential treatment of information, the applicant must submit both a confidential and a public version

of the application for initiation of a countervailing duty investigation. One original and six copies shall be submitted of each of the confidential version and the public version. Additional copies of the public version must also be provided for each known exporting country or region of the subject merchandise. In its discretion, MOFTEC may limit the number of additional copies required, but to no less than five.

Article 28. In addition to a hard copy of the application for initiation of a countervailing duty investigation and supporting materials, the applicant shall provide an electronic copy of the same using the computer software program(s) specified by the Bureau of Fair Trade for Imports and Exports.

Article 29. The applicant may submit the application for initiation of a countervailing duty investigation and any supporting materials to the Bureau of Fair Trade for Imports and Exports by mail, by hand-delivery, or by any other means specified by the Bureau of Fair Trade for Imports and Exports.

Article 30. Upon receipt of an application for initiation of a countervailing duty investigation (and any supporting documents) submitted formally by an application, the Bureau of Fair Trade for Imports and Exports shall sign the date of receipt on the materials. The date of receipt shall be the date on which MOFTEC receives the application and supporting materials.

Chapter 4 - Initiation

Article 31. The Bureau of Fair Trade for Imports and Exports shall determine whether to initiate a countervailing duty investigation, based on its review of the application for initiation of a countervailing duty investigation submitted by an applicant, within 60 days from the receipt of the application and supporting materials. In cases in which the facts are exceptionally complex, the time for determination of initiation may be appropriately extended.

Article 32. The Bureau of Fair Trade for Imports and Exports shall transmit one copy of the confidential version and one copy of public version of the application for initiation of a countervailing duty investigation and all supporting materials to the State Economy and Trade Commission within 7 days of their receipt. The State Commission of Economy and Trade shall have at least 20 days to examine the application and supporting materials, and issue its opinion thereon.

Article 33. After examination, the Bureau of Fair Trade for Imports and Exports may require the applicant for initiation of a countervailing duty investigation to make amendments to its application or to provide supplemental information. If the applicant fails to make the required amendments or to provide the requested supplemental information within the appropriate time limits, MOFTEC may reject the application for initiation of a countervailing duty investigation.

Article 34. In any case that an application for initiation of a countervailing duty investigation is rejected, MOFTEC shall notify the applicant and explain the reasons for the rejection.

Article 35. After a preliminary examination to determine whether an application for initiation of a countervailing duty investigation has met all general requirements, MOFTEC shall invite the governments of the exporting countries or regions for consultations with the aim of clarifying the issues raised in the application and to seek a mutually agreeable solution. Such an invitation for consultation must be made before MOFTEC makes a determination regarding initiation of a countervailing duty investigation.

An exporting country or region’s refusal to enter into consultations shall not prevent MOFTEC from continuing with the remaining steps for determining whether initiation of a countervailing duty investigation is proper.

Article 36. If MOFTEC and the governments of the exporting countries or regions reach an agreement through successful consultations, MOFTEC may decide not to initiate decline to take further steps in a countervailing duty investigation and, if so, shall notify the applicant of the reasons therefor.

Article 37. In cases where the governments of the exporting countries or regions accept the invitation for consultations, MOFTEC may extend the time limits for initiation of the countervailing duty investigation in order to accommodate the consultations. The time for consultations , however, shall be no more than 60 days.

The failure of consultations or the failure to reach an agreement within 60 days shall not prevent MOFTEC from continuing with the remaining steps for determining whether initiation of a countervailing duty investigation is proper.

Article 38. MOFTEC shall not publish any public notice if it determines not to initiate a countervailing duty investigation. However, MOFTEC shall notify the applicant of the reasons for not initiating the countervailing duty investigation.

Article 39. The application for initiation of a countervailing duty investigation shall not be publicized if MOFTEC determines not to initiate the investigation.

Article 40. In the event that MOFTEC decides to initiate a countervailing duty investigation after examination of the application therefor, MOFTEC shall issue a public notice and also specifically notify the applicant, known exporters, importers and other interested organizations, as well as the governments of exporting countries or regions.

Article 41. The public notice of initiation of a countervailing duty investigation shall contain the following information:

(1) a summary of the written application for initiation of a countervailing duty investigation and the results of the examination by MOFTEC;

(2) a summary of the materials on which the decision to initiate the investigation is based;

(3) the date of initiation of the investigation;

(4) the exporting countries or regions of the product subject to investigation;

(5) a description of the product subject to investigation;

(6) the time period of the investigation;

(7) the intention of the investigating authority to conduct on-the-spot verifications of information submitted in the course of the investigation;

(8) the consequences of not responding to questionnaires issued to interested parties or the governments of exporting countries or regions;

(9) the time limits for comments from the interested parties or the governments of exporting countries or regions;

(10) the address of the investigating authorities and means of contact.

Article 42. The Bureau of Fair Trade for Imports and Exports shall provide a public version of the application for initiation of a countervailing duty investigation to the known exporters and the governments of exporting countries or regions after the publication of the notice of initiation.

Article 43. The date of initiation of the countervailing duty investigation shall be the date of publication of the decision to initiate a countervailing duty investigation.

Article 44. In special circumstances where there is sufficient evidence

confirming the existence of a subsidy as well as injury to the domestic injury caused by subsidized imports, MOFTEC may, after consultations with the State Economy and Trade Commission, decide to initiate a countervailing investigation on its own initiative.

If MOFTEC decides to initiate a countervailing duty investigation on its own initiative, the evidence available to MOFTEC shall meet the requirements specified in Article 3 of these Rules.

Article 45. The procedures for initiation on MOFTEC's own initiative shall be in conformity with the provisions of this Chapter.

Chapter 5 - Supplementary Provisions

Article 46. MOFTEC has the sole responsibility for, and authority to, interpret these Rules.

Article 47. These Rules shall enter into force on 13 March 2002.

Provisional Rules on Questionnaires in Countervailing Duty Investigations

Chapter 1 - General Provisions

Article 1. These Rules are promulgated in accordance with the provisions of "the Countervailing Duty Regulation of the People's Republic of China" with a view to ensuring the conduct of the countervailing duty investigation by regulating the questionnaire.

Article 2. The Ministry of Foreign Trade and Economic Co-operation (hereinafter referred to as MOFTEC) appoints the Bureau for Fair Trade of Imports and Imports to implement these Rules.

Article 3. These Rules are applied to countervailing duty investigations carried out by MOFTEC by means of the investigation questionnaire in order to determine the existence and amount of a subsidy.

Article 4. The investigation questionnaire mentioned in these Rules refers to a written list of questions issued by MOFTEC to the exporters and producers of the countries (regions) under investigation, who are designated to respond to the proceedings (hereinafter referred to as "responding company").

Article 5. A responding company shall, according to the requirements of MOFTEC, reply accurately and completely to all questions listed in the questionnaire, and submit all information and materials required therein.

Chapter 2 - Issuance of Questionnaire

Article 6. The producers or exporters of the country (region) under investigation shall, according to the requirement specified in the public notice

of initiation, register with MOFTEC for responding to the proceeding within 20 days from the date of initiation of the countervailing duty investigation.

Article 7. For registration with MOFTEC to respond to the proceeding, the producers and exporters shall submit the following information in the form of simplified Chinese text:

(1) a clear expression of intent to register to respond to the proceeding;

(2) the name, address, legal representative, and means of contact and name of the contact person for the responding company;

(3) the total quantity and value of the product concerned exported to the P.R.C. during the investigation period.

The registration document for responding to the proceeding shall have the seal of the responding company and/or the signature of its legal representative.

Where representation of the corresponding company is by a practising lawyer of the P.R.C., the registration document shall list the attorney's name, means of contact, law firm and address, together with an original power of attorney.

Article 8. The investigation questionnaire shall be issued to the responding companies within ten working days after the deadline for registration.

Article 9. If there are too many responding companies and MOFTEC decides to carry out the countervailing duty investigation by using samples, the questionnaire may be issued only to the responding companies selected as samples.

MOFTEC may properly extend the period for issuing the questionnaire if the investigation is conducted by sampling.

Chapter 3 - Requirements for Questionnaire Responses

Article 10. The responding company shall submit its questionnaire response as accurately and completely as is possible within the specified time limits. The questionnaire response shall include all information required in the investigation questionnaire.

Article 11. The responding company may consult with the case-handlers listed in the questionnaire, in writing, if there are any questions about how to reply to the questionnaire.

Article 12. Before answering the questions listed in the questionnaire, the responding company shall in each case first describe the subject of the question and then answer the question directly under the subject.

Article 13. The questionnaire shall be completed in simplified Chinese text and shall be accompanied by relevant supporting documents according to the requirements specified. If the original supporting materials are in a language other than Chinese, copies of both the original supporting materials and a Chinese translation thereof shall be provided.

Article 14. The responding company shall indicate the source and origin of the supporting materials used in the questionnaire response. All documents relevant to the questionnaire, such as sales documents, accounting records, financial reports and other documents shall not only be attached to the questionnaire response of the company as required, but shall also be available for verification.

Article 15. The supporting materials for transactions required by the questionnaire shall be presented chronologically; supporting materials for each transaction shall be presented according to the transaction flow while a list of supporting materials for each transaction shall also be attached.

Article 16. The responding company shall, according to the requirements of

the questionnaire, copy the questionnaire and transfer it to its associated trading company or other related companies to complete. The associated trading company or other related companies shall submit the questionnaire separately according to the requirements of the questionnaire.

Chapter 4 - Submission of the Questionnaire Response

Article 17. The questionnaire response shall be submitted to MOFTEC within 37 days from the date on which the questionnaire was issued.

Article 18. If there is justifiable reason showing that it is unable to complete the questionnaire before the deadline, the responding company shall submit, seven days before the deadline, to MOFTEC a written request for an extension of the time limit with respect to submission of the questionnaire response, by presenting the grounds and reasons for extension.

MOFTEC shall reply in writing, no later than four days before the deadline, to the request for extension according to the particular situation of the responding company.

Normally an extension shall not exceed 14 days.

Article 19. Where the questionnaire response contains confidential information, the responding company shall request confidential treatment of the information and give reasons for its confidentiality.

A non-confidential summary shall be provided for information requiring confidential treatment. A non-confidential summary shall provide adequate and meaningful information that may permit other interested parties to have a reasonable understanding. Where a non-confidential summary is impossible, it shall explain the reason thereof.

Article 20. MOFTEC shall examine the request for confidential treatment. If

the reasons for confidentiality are insufficient, or if a non-confidential summary does not satisfy the requirements of paragraph 2 of Article 19, or if the reasons why a non-confidential summary is impossible are not adequate, the responding company may be required to make amendments.

MOFTEC may disregard the materials if the responding company refuses to make amendments or if the amended non-confidential summary does not satisfy requirements.

Article 21. The questionnaire response shall be prepared in two types. One shall be a complete questionnaire response including confidential information; the other one is a response containing public information only. The responding company shall clearly designate the confidential version or public version on the cover page of each questionnaire response. In the public version of the questionnaire response, confidential information shall be indicated by the use of brackets "[ ]", plus the corresponding serial number of the non-confidential summary.

Article 22. The responding company shall submit one original questionnaire response in Chinese and four copies of the confidential version and the public version, respectively.

The whole questionnaire response must be properly bound into a book. The page number must be printed on each page of the questionnaire response and on each of the attached supporting materials. The questionnaire response shall contain a table of contents for the text of the response and the attached supporting materials, and each annex shall be labelled with a serial number.

Article 23. The responding company shall submit a certificate signed by the legal representative or its authorized person, according to the requirement of the questionnaire, stating that the information submitted by the responding company is accurate and complete.

MOFTEC shall not accept the questionnaire response if such certificate is not attached thereto.

Article 24. The text of the written response and tables of data submitted to MOFTEC shall be accompanied by a computer disk or CD in accordance with the requirements of the questionnaire, or by other electronic medium acceptable to MOFTEC.

The content of electronic media shall be in the same form as the printed questionnaire response, the calculation formula shall be kept in the tables if the data is calculated.

Article 25. The responding company is responsible for ensuring that all data submitted in an electronic format is free of viruses. Failure to undertake reasonable measures to avoid transmitting viruses may be deemed to impede the investigation. In such a case, MOFTEC may make its determination on the basis of facts available.

Article 26. In normal circumstances, failure to submit data in electronic format, particularly failure to submit electronic media containing data of transactions and financial figures, shall be considered non-cooperation by the responding company.

If the responding company is unable to submit data in electronic format, or is unable to submit data in electronic format according to the requirements of the present Rules, or the responding company would bear an improper extra burden if it is to submit electronic media according to the requirements of the present Rules, the responding company shall submit a written request to MOFTEC within 15 days after the questionnaire is issued, explaining the reason why it is unable to submit data in electronic format. MOFTEC shall reply in writing whether it agrees or does not agree within 5 days after receiving the request.

Article 27. The questionnaire response of the responding company shall be submitted by representation of a practising lawyer of the P.R.C., and the relevant matters shall be dealt with by the responding company's attorney. A valid power of attorney and a copy of the valid lawyer permit of the attorney shall be attached to the questionnaire response. .

Article 28. The questionnaire response shall be sent to the address specified in the questionnaire either by mail or by hand delivery before 17:00 on the specified deadline.

The delivery date shall be the date on which MOFTEC receives the questionnaire response.

Chapter 5 - Supplementary Provisions

Article 29. In the course of the countervailing duty investigation, MOFTEC may issue additional investigation questionnaires to the responding company requiring further information and materials.

The matters relevant to the additional questionnaire, such as issuance, reply and submission shall be in conformity with these Rules.

Article 30. If the responding company does not submit the questionnaire response within the specified time limit, or if it can not submit the questionnaire response as accurately and completely as possible in accordance with the requirements of these Rules, or if it does not permit MOFTEC to verify the documents submitted, or if it seriously impedes the investigation through other methods, MOFTEC may make its preliminary or final determination on the basis of the facts available and draw adverse inferences with respect thereto.

Article 31. MOFTEC may issue the questionnaire to the government of the exporting countries (regions) or the countries (regions) of origin within thirty

days after the public notice of initiation of the investigation. These Rules shall apply to issuance, reply and submission of the questionnaire.

Article 32. MOFTEC shall have authority to interpret these Rules.

Article 33. These Rules will enter into force on 15 April 2002.

Provisional Rules on the Conduct of Public Hearings in Countervailing Duty Investigations

Article 1. With a view to promoting the fair and equitable conduct of countervailing duty investigations and protecting the legal rights and interests of the interested parties as well as the government of the interested country or region, these Rules are formulated in accordance with relevant provisions of "the Countervailing Regulations of the People's Republic of China".

Article 2. These Rules are applicable to public hearings held by the Ministry of Foreign Trade and Economic Co-operation (hereinafter referred to as "MOFTEC") to determine the existence of a subsidy in a countervailing duty investigation.

Article 3. MOFTEC hereby appoints the Bureau of Fair Trade for Imports and Exports to implement these Rules for public hearings in countervailing duty investigations.

Article 4. Any hearing for the determination of a subsidy shall be held publicly unless permitted otherwise by the Bureau of Fair Trade for Imports and Exports in cases in which state secrets, commercial secrets or personal privacy are concerned.

Article 5. Subject to Article 4, the Bureau of Fair Trade for Imports and Exports shall hold a public hearing upon application by an interested party or government of the interested country or region. The Bureau of Fair Trade for Imports and Exports may also decide to hold a public hearing on its own initiative if warranted.

Article 6. In cases in which the Bureau of Fair Trade for Imports and Exports

determines to hold a public hearing on its own initiative, it shall notify in advance all interested parties and the government of the interested country or region, and apply the relevant provisions of these Rules.

Article 7. The "interested parties" to which these Rules refer include the applicant for the countervailing investigation, known exporters, importers, and other interested organizations or individuals. The "government of the interested country or region" refers to the government of the exporting country or region and/or to the government of country or region of origin.

Article 8. Any interested party, or government of the interested country or region, that requests a public hearing shall submit to the Bureau of Fair Trade for Imports and Exports a written application for a public hearing.

The application for a public hearing shall include the following information:

(1) the name, address and any other relevant information of the applicant;

(2) the purpose for which the hearing is requested;

(3) the reasons for which the hearing is requested.

Article 9. Within 15 days after the receipt of an application for hearing submitted by an interested party or the government of the interested country or region, the Bureau of Fair Trade for Imports and Exports shall determine whether to hold a public hearing and, if so, shall notify the interested parties including the applicant and the government of the interested country or region.

Article 10. The notice of decision to hold a public hearing issued by the Bureau of Fair Trade for Imports and Exports shall include the following information:

(1) whether the Bureau of Fair Trade for Imports and Exports has determined to hold a public hearing;

(2) the reasons for holding a public hearing;

(3) the time for registration for appearance at the hearing, the site of the hearing, the person to preside at the hearing, and any other relevant requirements needed to be known by the interested parties before the hearing;

(4) any other information relevant to the public hearing.

Article 11. After receiving the notice of decision to hold a public hearing, each interested party and/or the government(s) of the interested country or region shall register to appear at the public hearing with the Bureau of Fair Trade for Imports and Exports in accordance with the instructions in the notice, submit a summary of the presentation that the party or government will make at the hearing, and provide any other relevant evidence specified in the notice.

Article 12. The Bureau of Fair Trade for Imports and Exports shall determine the time and location of the public hearing and establish a hearing agenda, within 20 days of the final date of registration for the public hearing as specified in the notice of decision to hold a public hearing. The Bureau of Fair Trade for Imports and Exports shall also notify the registered interested parties and government(s) of the interested country or region within 20 days of the final date for registration for the public hearing as specified in the notice of decision to hold a public hearing.

Article 13. The person presiding at the public hearing shall exercise the following functions and powers during the hearing:

(1) to preside over the hearing and monitor its progress;

(2) to ascertain the identity of hearing participants;

(3) to maintain order at the hearing;

(4) to question the interested parties and the government(s) of the interested countries or regions;

(5) to determine questions of evidence, including whether to permit the interested parties and government(s) of the interested countries or regions to present additional evidence;

(6) to make any decisions regarding the suspension or termination of the hearing;

(7) to determine any other matters necessary at the hearing.

Article 14. Any interested party or government of an interested country or region may be represented by its legal representative(s) or leading official at the public hearing.

Article 15. The interested parties and/or the government of the interested countries or regions appearing at the public hearing shall assume the following obligations in the hearing:

(1) to appear at the designated time and place to attend the hearing;

(2) to abide by the rules of the hearing and to follow instructions of the official presiding at the hearing;

(3) to respond accurately and completely to the questions presented by the official presiding at the hearing.

Article 16. The public hearing shall be conducted in accordance with the following procedures:

(1) the official presiding at the hearing shall announce the commencement of the hearing, and present the rules of the hearing;

(2) the official presiding at the hearing shall confirm the identity of the hearing participants;

(3) the interested parties and/or the governments of the interested countries or regions shall make their presentations;

(4) the official presiding at the hearing shall examine the interested parties and/or governments of the interested countries or regions;

(5) the interested parties and/or the governments of the interested countries or regions shall make their final presentations;

(6) the official presiding over the hearing shall announce the closure of the hearing.

Article 17. The purpose of the public hearing shall be to permit the investigating authorities to collect further information and to permit the interested parties and/or the governments of the interested countries or regions to present their views and to submit evidence. Debate between interested parties and governments is not permitted at the public hearing.

Article 18. Each public hearing shall be recorded in writing that shall be signed by, or affixed with the official seal of, the official presiding over the hearing, the person recording the hearing, and the interested parties and/or the governments of the interested countries or regions appearing at the hearing. In any case in which an interested party and/or the government of an interested country or region refuses to sign the record of the proceeding, or affix its seal to the record of the proceeding, the person presiding at the hearing shall record the refusal in the record of the hearing.

Article 19. A public hearing may be postponed or cancelled by the decision of Bureau of Fair Trade for Imports and Exports under any of the following circumstances:

(1) if, by reason of force majeure, the applicant for the hearing has submitted a written request for cancellation or postponement the hearing.

(2) if the countervailing investigation is terminated;

(3) for any other reason necessitating the cancellation or postponement of the hearing.

Article 20. After the grounds for postponing a public hearing cease to exist, the Bureau of Fair Trade for Imports and Exports shall immediately resume the public hearing and notify the registered interested parties and/or the governments of the interested countries or regions.

Article 21. The form of notification required by these Rules is public notice by MOFTEC. Nonetheless, under special circumstances, the Bureau of Fair Trade for Imports and Exports may adopt other forms of public notification.

Article 22. The official language used in the hearing shall be Chinese.

Article 23. MOFTEC has the sole responsibility for, and authority to, interpret these Rules.

Article 24. These Rules shall enter into force on 13 March 2002.

Provisional Rules on On-the-spot Verification in Countervailing Duty Investigations

Article 1. With a view to regulating the procedure for on-the-spot verification in countervailing duty investigations, these Rules are formulated in accordance with provisions of "the Countervailing Duty Regulation of the People's Republic of China".

Article 2. The Ministry of Foreign Trade and Economic Co-operation (hereinafter referred to as MOFTEC) appoints the Bureau of Fair Trade for Imports and Exports to be in charge of the implementation of these Rules.

Article 3. The on-the-spot verification provided for in these Rules refers to the procedure by which MOFTEC dispatches its officials to the exporting country (region) concerned during the investigation to verify truthfulness, accuracy and adequacy of the materials submitted by the exporters and producers and to collect further information and materials.

Article 4. MOFTEC shall carry out the on-the-spot verification only for those exporters and producers of the exporting country (region) concerned that co-operate fully in the investigation.

Article 5. The main purpose of the on-the-spot verification is to verify the information and materials submitted by the exporters and producers, including:

(1) all information and materials submitted by the exporters and producers in the questionnaire response;

(2) information and materials contained in the additional questionnaire submitted by the exporters and producers according to the requirements of

MOFTEC;

(3) information and materials submitted to MOFTEC by the exporters and producers on their own initiative;

(4) other information and materials that MOFTEC considers necessary to verify.

Article 6. MOFTEC may decide whether to carry out an on-the-spot verification based upon the merits of the particular circumstances in each case..

Article 7. The on-the-spot verification will normally be carried out by MOFTEC after the preliminary determination. However, the on-the-spot verification may alternatively be carried out before the preliminary determination, based upon the merits of each case.

Article 8. Having decided to carry out an on-the-spot verification, MOFTEC shall provide advance notice to the exporters and producers in question and the government of their country (region).

Article 9. MOFTEC shall obtain the express agreement of the exporters and producers in question before the on-the-spot verification is conducted,.

Article 10. Where on-the-spot verification is agreed to by the exporters and producers in question, MOFTEC shall notify the government of the exporters' and producers' country (region) of the relevant information, such as the name, address and agreed date for verification. MOFTEC shall not carry out the on-the-spot verification if the government of the exporters and producers' country (region) objects to it.

Article 11. Prior to the on-the-spot verification, MOFTEC shall provide advance notification of the detailed schedule to the exporters and producers in

question.

Article 12. The verifying team shall be organized by MOFTEC. Normally the verifying team will be comprised of the government officials in charge of the countervailing duty investigation.

In exceptional circumstances, MOFTEC may invite non-governmental experts to take part in the verification; however, in such cases, the exporters and producers and the government of their country (region) shall be so informed in advance. Such non-governmental experts must abide by confidentiality requirements.

Article 13. The verifying team shall, prior to the on-the-spot verification, notify the exporters and producers in question of the general nature of the information to be verified, and of any further information that needs to be provided.

Prior to the verification, the verifying team may, where warranted, issue a detailed list of issues for verification to the exporters and producers concerned.

Article 14. The exporters and producers in question shall maintain and prepare all evidence and materials that are to support information contained in the questionnaire response and additional questionnaire responses and make the same available for verification.

If the original records of the above-mentioned evidence and materials exist in the form of electronic data made with a computer software program, the exporters and producers under verification shall ensure that such computer software program works normally and that the electronic data can be copied and printed.

Article 15. The exporters and producers under verification shall co-operate actively with the verifying team during the on-the-spot verification. The staff

in charge of preparation of the questionnaire response and other staff in question shall be present and able to explain any questions whenever they are raised by the verifying team.

Article 16. The working language for verification is Chinese or any other languages to which the verifying team agrees.

Article 17. The verifying team may decide, according to the level of complexity of the case, whether to conduct a full verification or a verification by using samples.

Article 18. The on-the-spot verification may be carried out within the scope of verification notified in advance, which shall not prevent the verifying team from requiring on-the-spot requests for the provision of further information and materials on the basis of the information and materials available.

Article 19. After completing the verification, MOFTEC shall disclose the results of the verification to the exporters and producers subject to the verification within a reasonable period. MOFTEC may disclose a summary of the verification upon the request from other interested parties but not the confidential information of the exporters and producers.

Article 20. Having being verified, the information and materials provided in the questionnaire response and in the additional questionnaire response, or information and materials obtained further during the verification shall be the basis for MOFTEC to determine the existence and amount of a subsidy.

Article 21. MOFTEC may make its determination of subsidy and the amount of subsidy on the basis of facts available and draw adverse inferences with respect thereto, if the following circumstance exists:

(1) the exporters or producers refuse the on-the-spot verification;

(2) the government of the country (region) of the exporters and producers under verification has objected to the on-the-spot verification;

(3) the exporters or producers do not fully co-operate in accordance with the reasonable requirements of the verifying team;

(4) the verification cannot be completed as scheduled due to delay caused by the exporters or producers in question;

(5) serious problems are discovered during the verification with respect to the truthfulness, accuracy and adequacy of the information and materials provided by the exporters and producers in question;

(6) there is clear existence of fraud or concealment perpetrated by the exporters and producers in question;

(7) other acts that impede the on-the-spot verification.

Article 22. MOFTEC may, where necessary, conduct an on-the-spot verification of relevant domestic importers of the product concerned. These Rules shall apply to such verification.

Article 23. Upon request by exporters and producers concerned, and if the government of their country (region) has no objection thereto to, MOFTEC may dispatch its staff to the exporting country (region) to explain the countervailing duty investigation questionnaire.

Article 24. MOFTEC shall have authority to interpret these Rules.

Article 25. These Rules shall enter into force on 15 April 2002.

（III）SAFEGUARDS

Provisional Rules on Initiation of Safeguards Investigations

CHAPTER 1 - GENERAL PROVISIONS

Article 1 These Rules are formulated in accordance with "the Regulation of the People's Republic of China" to standardize the procedure for application and initiation of investigations.

Article 2 The Ministry of Foreign Trade and Economic Co-operation (hereinafter referred to as MOFTEC) appoints the Bureau of Fair Trade for Imports and Exports to implement these Rules.

Article 3 MOFTEC may initiate a safeguards investigation upon an application by the applicant or upon its own initiative.

CHAPTER 2 – APPLICATION

Article 4 Any natural person, legal person or other organizations relating to the domestic industry (hereinafter referred to as "the applicant") may file an application for a safeguards investigation.

Article 5 An application for safeguards investigation shall be filed in written form. The written application shall contain a formal request to MOFTEC

expressing the applicant's wish to initiate a safeguards investigation, and shall be sealed or signed by the applicant or by its legally authorized representative.

Article 6 The application shall contain the following information:

(1) the identity of the applicant;

(2) a description of the imported product, the domestic like product and the directly competitive product;

(3) the known exporting countries (regions), exporters, producers and importers of the imported product;

(4) a description of the domestic industry;

(5) a description of the increase in quantities of the imported product;

(6) a description of injury;

(7) a description of the causal link between the increase in imports and the injury;

(8) a description of the remedy requested;

(9) other information which the applicant considers relevant to the request.

Article 7 With respect to the identity of the applicant, the applicant shall provide the following information:

The applicant's name, its legal representative, address, telephone number, postal code, facsimile number, contact person, etc;

If an attorney is appointed by the applicant, the attorney's name, his identity and other information shall be specified and the power of attorney provided.

Article 8 In respect of the imported product, the domestic like product and the directly competitive product, the applicant shall provide the following supporting information:

(1) a full description of the imported product, including product name, types, specification, uses, market situation, and the Customs code of the People's Republic of China, etc.

(2) for the domestic like product or the directly competitive product, its product name, types, specification, uses and market situation, etc;

(3) description of similarities and differences between the imported product and the domestic like product or the directly competitive product, including physical characteristics, chemical properties, production technology, uses and substitutes, etc;

(4) any other supporting materials requested by MOFTEC.

Article 9 The applicant shall provide the name of the exporting country (region) of the imported product, the name of the country (region) of origin, the names, addresses and means to contact the known exporters, producers and importers of the imported product.

Article 10 In respect of the domestic industry, the applicant shall provide the following supporting materials:

(1) the names, addresses and means to contact the known domestic producers and relevant associations or chambers of commerce;

(2) the total quantity of annual domestic production of the like product or the directly competitive product produced by all producers in the last five years prior to the submission of the application;

(3) the annual production quantity of the like product or the directly

competitive product produced by the applicant and its market shares of the total quantity of domestic production in the last five years prior to the submission of the application;

(4) other supporting materials requested by MOFTEC.

Article 11 In respect of the increase in quantities of the imported product, the applicant shall provide the following supporting materials:

(1) the annual import quantity and value of the product in question for at least the last five years prior to the submission of the application which is to be demonstrated by using graphs.

(2) the absolute export quantity of the imported product from every exporting country (region) and its percentage of the total import quantity of the imported product for at least the last five years prior to the submission of the application;

(3) an explanation showing the market shares, in quantity and in value, of the total domestic consumption, represented respectively by the imported product, the domestic like product and the directly competitive product for at least the last five years prior to the submission of the application;

(4) analysis of reasons for the increase in imports in the last five years, taking into consideration factors including, but not limited to, the import duty rates imposed on the product in question, information about the duty reduction or preferential treatment that the imported product could have enjoyed, the export price of the imported product, etc;

(5) other supporting materials requested by MOFTEC.

Article 12 Where the application is filed on the basis that the increased imports have caused serious injury to the domestic industry, the applicant shall

provide the following evidence:

(1) all relevant factors and indices of an objective and quantifiable nature having a bearing on the situation of the domestic industry, in particular: the rate and quantity of the increase in imports of the imported product in absolute and relative terms; the share of the domestic market held by increased imports; and changes in the level of sales, production, productivity, capacity utilization, profits and losses, and employment;

(2) evidence concerning the impact of prices of the imported product on the price of the domestic like product or the directly competitive product;

(3) other supporting materials requested by MOFTEC.

Article 13 Where the application is filed on the basis that increased imports threaten to cause serious injury to the domestic industry, the applicant shall provide the following evidence:

(1) evidence of the capacity to export and inventories of the imported product in the exporting country and evidence that such imports may continue to increase;

(2) evidence of changes in circumstances related to the factors and indices listed in paragraph 1 of Article 12 of these Rules are clearly foreseen and imminent.

Article 14 The applicant's allegation concerning the impact of the imported product on the domestic industry and the relevant evidence to be submitted shall be determined separately in relation to the production of the domestic like product or the directly competitive product. If such separate identification of that production of the domestic like product or directly competitive product is not possible, the allegation shall be determined in relation to the production of the narrowest group or range of products which

include the domestic like product or the directly competitive product.

Article 15 With regard to the causal link between the increase in imports and injury, the applicant shall analyze the submitted information, and explain the causal link between the increase in import and injury caused to the domestic industry.

In demonstrating the causal link between the increase in imports and the injury caused to the domestic industry, in addition to the increase in imports; the applicant shall analyze factors in addition to that have concurrently caused injury to the domestic industry. These factors shall include, but not be limited to, contraction in demand or changes in the patterns of consumption, trade-restrictive practices and competition between foreign and domestic producers, developments in technology, and the export performance and productivity of the domestic industry. If the applicant considers that certain factors, as above-mentioned, are inapplicable, an explanation shall be provided.

Article 16. The applicant shall describe the requested measures in the application, and may allege the form, detailed substance, duration and reason for the requested measures.

Article 17 If applying for the imposition of immediate provisional safeguards measures, the applicant shall provide evidence that the increased imports have caused serious injury or threatened to cause serious injury and that irreparable damage would occur if the measures are delayed, and the applicant shall also demonstrate the margin by which the Customs duty is to be raised.

Article 18 The applicant shall identify the sources of its evidence when providing supporting documents specified in this Chapter.

Article 19 The Applicant shall request confidential treatment for any

confidential materials contained in the application; the applicant shall furnish a non-confidential summary for those confidential materials to permit other interested parties in the case to have a reasonable understanding of the confidential materials; if the applicant cannot provide such non-confidential summary, the reason therefor should be provided.

Article 20 The application for a safeguards investigation and supporting materials shall be submitted in Chinese type. Standardized terms shall be used where standardized terminology has been adopted by the State .

If the supporting documents submitted by the applicant are in a foreign language, the applicant shall provide a full text copy of the document in the original foreign language and a Chinese translation of the relevant part of the text.

Article 21 The application and the attached supporting documents shall include a confidential version (where the applicant requests confidential treatment) and a public version. One original and six copies of the confidential version shall be submitted. For the public version, in addition to submitting one original and six copies, additional copies equal to the number of exporting countries (regions) from which the imported product originate shall be submitted. In its discretion, MOFTEC may limit the number of additional copies required, but to no less than five.

Article 22 The applicant shall submit the application and supporting materials in an electronic version in accordance with the computer software program required by the Bureau of Fair Trade for Imports and Exports.

Article 23 The applicant shall send the written application and supporting materials by mail or by hand delivery to the Bureau of Fair Trade for Imports and Exports.

Article 24 Upon receipt, the Bureau of Fair Trade for Imports and Exports shall mark the application and supporting materials which are formally submitted by the applicant as so received. The date of receipt shall be the date upon which the Bureau of Fair Trade for Imports and Exports receives the written application and supporting materials.

Article 25 MOFTEC shall maintain the confidentiality of the documents and materials submitted by the applicant prior to the decision of initiation of the investigation and to the publication of the public notice.

CHAPTER 3 - INITIATION

Article 26 The Bureau of Fair Trade for Imports and Exports may conduct an investigation by means of questionnaires or on-the-spot verification of the issues contained in the written application and supporting materials, including the standing of the applicant and the imported product, etc.

Article 27 MOFTEC shall make a decision on whether to initiate an investigation within 60 days after receipt of the written application for a investigation; in particularly complicated cases, an appropriate extension may be given to the time limit for examination.

Article 28 The Bureau of Fair Trade for Imports and Exports may require the applicant to amend or provide supplemental information to the application for safeguards investigation within the period specified in Article 27 of these Rules. If the applicant does not amend or provide supplemental information, or if it fails to make the amendment or to provide supplemental information in conformity with the requirements specified and within the specified time limits, MOFTEC may reject the application with notice to the applicant.

Article 29 If MOFTEC decides not to initiate an investigation, it shall notify

the applicant of its decision and its reasoning.

Article 30 A public notice shall be published if MOFTEC decides to initiate an investigation.

The public notice shall contain the following information:

(1) the name and description of the imported product;

(2) the exporting country (region) of the imported product;

(3) a summary of the information on which the decision to initiate is based;

(4) the schedule for the investigation;

(5) the time limits for interested parties to comment;

(6) ways to contact the investigating authorities.

Article 31 MOFTEC shall notify the Committee on of the World Trade Organization within 7 working days after the decision to initiate the investigation has been made.

Article 32 The date of initiation of the safeguards investigation shall be the date of publication of the public notice of the decision to initiate the investigation.

CHAPTER 4 - INITIATION ON ITS OWN INITIATIVE

Article 33 Even if no written application for safeguards measures is received, MOFTEC may decided to initiate an investigation on its own initiative on the basis of sufficient evidence showing that the increase in quantities of the imported product causes or threatens to cause serious injury to the domestic industry, .

Article 34 Where MOFTEC decides to initiate a investigation on its own initiative, the evidence and materials available to MOFTEC shall be consistent with the pertinent provisions of Chapter 2 of these Rules.

CHAPTER 5 SUPPLEMENTARY PROVISIONS

Article 35 MOFTEC shall have authority to interpret these Rules.

Article 36 These Rules shall enter into force on 13 March 2002.

Provisional Rules on Public Hearings in Safeguards Investigations

Article 1. With a view to ensuring a fair and equitable investigation for safeguard measures and to protecting lawful interests of the interested parties, these Rules are formulated in accordance with the pertinent provisions of "the Safeguards Regulation of the People's Republic of China".

Article 2. These Rules apply to hearings held by MOFTEC in the conduct of safeguards investigations to determine the increase in quantities of the imported article and the existence of a causal link between such increase and the injury.

Article 3. The Bureau of Fair Trade for Imports and Exports of Ministry of Foreign Trade and Economic Co-operation (hereinafter referred to as "Bureau of Fair Trade for Imports and Exports") shall be in charge of organizing the hearings referred to in these Rules.

Article 4. The hearings referred to in these Rules shall be publicly held. In cases involving State secrets, business secrets or where personal privacy is concerned, the Bureau of Fair Trade for Imports and Exports may hold such hearings by other means.

Article 5. The Bureau of Fair Trade for Imports and Exports shall hold a hearing upon request of the interested parties. When warranted, the Bureau of Fair Trade for Imports and Exports may also hold a hearing on its own initiative.

Article 6. Where the Bureau of Fair Trade for Imports and Exports holds a hearing on its own initiative, it shall notify the interested parties in advance,

and apply the relevant provisions of these Rules.

Article 7. The interested parties specified in these Rules include the applicant for the safeguards investigation, the government of the exporting country (region), the government of the country (region) of origin, exporters and importers, and other organizations or individuals having interests in the case.

Article 8. Where an interested party requests a hearing, a written application requesting such hearing shall be submitted to the Bureau of Fair Trade for Imports and Exports.

The written application shall include the following contents:

(1) Name, address and relevant information of the applicant requesting the hearing;

(2) Purposes for which the hearing is requested;

(3) Reasons the hearing is requested.

Article 9. The Bureau of Fair Trade for Imports and Exports shall decide whether to hold a hearing within 15 days of receipt of a written application from interested party, and shall promptly notify its decision to the relevant interested parties.

Article 10. The notice of the decision to hold a hearing by Bureau of Fair Trade for Imports and Exports shall include the following information:

(1) the decision for holding the hearing;

(2) the reasons for holding the hearing;

(3) the time for registration, address, and relevant requirements to be known by the interested parties before the hearing;

(4) other maters relevant to the hearing.

Article 11. After receiving notice of the decision to hold a hearing, each interested party shall register with the Bureau of Fair Trade for Imports and Exports, submit a summary of the written presentation at the hearing, and relevant evidence in accordance with the elements and requirements specified in the notice.

Article 12. The Bureau of Fair Trade for Imports and Exports shall determine the time, location, presiding official for the hearing and hearing agenda within 20 days after the expiry date of registration for the hearing specified in the notice of decision to hold a hearing and shall notify the registered interested parties thereof.

Article 13. The presiding official for the hearing shall exercise the following functions and powers:

(1) to preside over the hearing;

(2) to ascertain identity of hearing participants;

(3) to maintain the hearing order;

(4) to question the interested parties;

(5) to decide on whether to allow interested parties to provide additional evidence and whether to determine the authenticity of the evidence which has been presented;

(6) to decide whether to suspend or terminate the hearing;

(7) to decide other matters necessary at the hearing.

Article 14. Interested parties may be represented at the hearing by their own representative or not more than 2 attorneys on their behalves.

Article 15. The interested parties shall assume the following obligations to participate in the hearing:

(1) to arrive on time at the designated place to attend the hearing;

(2) to abide by disciplines of the hearing and to follow instructions of the hearing's presiding official;

(3) to answer the presiding official's questions according to the facts.

Article 16. The hearing shall be conducted according to the following procedures:

(1) announcement of the commencement of the hearing and disciplines of the hearing;

(2) ascertainment of the identity of the hearing participants;

(3) presentation by the interested parties;

(4) questioning of the interested parties;

(5) final presentation by the interested parties;

(6) announcement of the adjournment of the hearing.

Article 17. The purpose of the hearing is to allow the investigating authorities to have an opportunity to collect further information and to allow the interested parties to present their views and to submit evidence;, however, there is no procedure for debate.

Article 18. The hearing shall be recorded in writing. The presiding official, recorder and the interested parties attending the hearing shall sign or affix their seals then and there. Where the interested parties refuse to sign or affix seal, the presiding official shall record it in the notes of the hearing.

Article 19. The hearing may be postponed or cancelled by the Bureau of Fair Trade for Imports and Exports under any one of the following circumstances:

(1) where by reason of an event or an event due to force majeure, the applicant requesting the hearing has submitted a written request to cancel or postpone the hearing;

(2) where the safeguards investigation is terminated;

(3) where other matters make it necessary to postpone or cancel the hearing.

Article 20. After the grounds for postponing the hearing no longer exist, the Bureau of Fair Trade for Imports and Exports shall immediately re-schedule the hearing and notify the registered interested parties.

Article 21. The form of notification referred to in these Rules is the public notice of MOFTEC. Under special circumstances, the Bureau of Fair Trade for Imports and Exports may adopt other forms.

Article 22. The working language used in the hearing shall be Chinese.

Article 23. MOFTEC shall have the authority to interpret these Rules.

Article 24. These Rules shall enter into force on 13 March 2002.

Provisional Rules on the Procedures for Adjusting the Scope of Products under Safeguards Investigations

Article 1 In order to guarantee the fairness, justice and openness of the safeguards work, these Rules are enacted in accordance with the Safeguards Regulations of the People''s Republic of China.

Article 2 According to Articles 5, 15, 16, 18 and 21 of the Safeguards Regulations of the People''s Republic of China, the Ministry of Foreign Trade and Economic Cooperation （hereinafter referred to as MOFTEC） shall determine in the safeguards case filing proclamations and award proclamations （hereinafter referred to as safeguards proclamations） the range of products under safeguards investigation and that of products subject to safeguards （hereinafter referred to as range of products under safeguards）. The customs shall implement the range from the date of the proclamation.

Article 3 During the implementation period of safeguards proclamations, any adjustment in the range of products under safeguards shall be determined by MOFTEC through the relevant proclamations, and the customs shall implement the adjustment from the date of the proclamation.

Article 4 Procedures for adjusting the range of products in safeguards proclamations of the MOFTEC shall comply with these Rules.

Procedures for adjusting the range of products in safeguards proclamations include the application procedures and the procedures for acceptance of application, investigation, decision and the relevant proclamation by the

MOFTEC.

Article 5 Application procedures:

(1) After a safeguards case filing proclamation is made, if any relevant interested party raises objections to the range of products under investigation, it shall file an application for adjusting the range with the MOFTEC within the time period stipulated in the proclamation or within the period extended upon the approval of the MOFTEC.

(2) After a proclamation of safeguards preliminary award is made, if any relevant interested party raises objections to the range of products subject to safeguards, it shall file an application for adjusting the range with the MOFTEC within the time period stipulated in the proclamation or within the period extended upon the approval of the MOFTEC.

(3) The interested party as used in these Rules shall refer to the applicant for safeguards, foreign manufacturer, exporter, importer as well as other organization or individual with interest relations.

(4) The application shall be in filed in written form.

Article 6 An application form shall include the following information:

(1) The name and basic information of the applicant, and the product to be adjusted;

(2) Reasons for the adjustment, detailed explanation of the reasons and the relevant evidence;

(3) Detailed description and specification of the product to be adjusted. The product shall be described in the following order: tariff number, physical characteristics, chemical characteristics etc, and the description shall reflect the uniqueness and exclusiveness of that product; if the description

through the aforesaid methods can not reflect the uniqueness and exclusiveness of that product, the usage of the product shall be specified;

(4) Detailed description and explanation of the similarities and differences, and replaceable nature between the import product to be adjusted and the domestic product of the same kind or the directly competitive products;

(5) The import volume and sum of the import product to be adjusted of the previous five years and the forecasted import volume of the next three years;

(6) The foreign manufacturer, exporter, importer and end user;

(7) Seal or signature of the legal representative of the applicant or the person legally authorized thereby.

Article 7 Procedures for acceptance, investigation, decision and proclamation:

(1) MOFTEC shall check the application submitted by the applicant, and accept the application if it meets the requirements ofArticle 6;

(2) MOFTEC shall investigate and verify the authenticity of the application through questionnaire, on-spot verification and hearing etc;

(3) MOFTEC shall investigate the rationality of the application and the interests of the interested parties concerned including the applicant for safeguards, and verify the description and specification of the product, and may retain experts to make a demonstration when necessary;

(4) If the application meets the conditions for adjusting the range of products under safeguards according to the aforesaid procedures, MOFTEC may decide to adjust the range of products under safeguards and make a proclamation;

(5) Where MOFTEC hasn''t received an application for adjusting the product range, it may decide to adjust the product range upon the examination of the materials submitted by the interested parties;

(6) After the final decision on safeguards is implemented, if it is necessary to adjust the proclamation contents, a decision may be made by referring to the aforesaid procedures and be proclaimed by MOFTEC.

Article 8 Where safeguards review is involved, the adjustment of product range shall be carried out by referring to these Rules.

Article 9 The power to interpret these Rules shall remain with MOFTEC.

Article 10 These Rules shall enter into force on the 30th day after their proclamation.

（IV）Responding to Oveaseas Trade Remedy Investigations

Provisions on Responding to Antidumping Cases concerning Export Products

Article 1 In order to do a good job in responding to the antidumping cases launched by foreign countries against the export goods of China and safeguard the justifiable rights and interests of the enterprises, the present Provisions are hereby instituted in accordance with the Foreign Trade Law of the People's Republic of China and the Regulation of the People's Republic of China on the Administration of the Import and Export of Goods.

Article 2 The present Provisions shall apply to the responding work to antidumping cases launched against the export goods of China, including investigation of the new case placed on file, review investigation, anti-absorption investigation and anti-circumvention investigation, etc.

Article 3 Those enterprises that have produced and exported the products involved to the investigation country or region during the investigation period of an anti-dumping case shall actively respond to the action.

Article 4 The import and export chamber of commerce and other industrial organizations shall, in accordance with their respective Articles of association, intensify the industrial self-discipline, maintain the industrial operation order, take charge of the industrial coordination of the responding work to anti-dumping cases, and promote their member enterprises to respond to the

anti-dumping cases launched by foreign countries.

Article 5 The Ministry of Commerce may institute the policies and measures concerning promoting the responding work to the anti-dumping cases.

Article 6 The Ministry of Commerce shall, timely publicize the relevant information about the investigation of anti-dumping cases or the responding work to actions, and the local competent commercial departments and industrial organizations shall, after obtaining the relevant information, notify the information to the enterprises involved immediately. The information prescribed in the preceding Paragraph shall mainly include the following:

(1) the information relevant to launching an investigation of a new case placed on file in the anti-dumping case;

(2) the information relevant to launching a review investigation in the anti-dumping case;

(3) the information relevant to launching anti-absorption and anti-circumvention investigation in the anti-dumping case; and

(4) other information which has significant effects on the responding work to action.

Article 7 After obtaining the information relevant to launching an investigation on a new case placed on file in the anti-dumping case, an industrial organization shall make coordinate preparations for the responding work to action in accordance with the export conditions of the products involved.

Article 8 An enterprise shall regulate its exportation according to law, safeguard the industrial export order, do a good job in the collection and sort-out of the information about anti-dumping cases, and report the information to the industrial organization in time.

Article 9 The enterprises involved which will participate in the responding work to action shall enjoy the rights below:

(1) to decide the way of responding to action;

(2) to select lawyers by themselves;

(3) to obtain the information about the overall progress in the investigation of the case and the conditions on responding to action by other enterprises, etc. from the industrial organization;

(4) to obtain the guidance and assistance from the industrial organization in connection with the responding work to action; and

(5) to put forward corresponding opinions or suggestions if there is any discriminatory act in the investigation organ of an anti-dumping case.

Article 10 An enterprise which has responded to an action shall not engage in any activity that may affect the justifiable rights and interests of any other enterprise responding to action, nor may it engage in any activity that may affect the overall industrial work on responding to action.

Article 11 An industrial organization shall organize the trainings about the legal knowledge on anti-dumping at regular intervals, and can establish a special fund from the membership dues to promote member enterprises to respond to actions.

Article 12 Where an industrial organization coordinates the work of responding to anti-dumping cases, its main responsibilities are:

(1) to establish a statistical supervisory system for export goods and an information collection and feedback mechanism of trade remedy cases;

(2) to assist, in accordance with the request of the enterprises responding to an

action, to their defences to such technical issues as the substitute country, market economy status and separate adjudication, and the field investigations by foreign investigation organs;

(3) to organizing the enterprises responding to an action to attend the hearings, and to consultant and negotiate with the foreign investigation organs and relevant industrial organizations or enterprises;

(4) to assist, in accordance with the request of the enterprises responding to an action, to the relevant issues as negotiations about the price commitment agreement; and bringing forward plans and suggestions to the Ministry of Commerce if any "price commitment agreement" or "suspension agreement" needs to be signed in the name of the government;

(5) to assist the enterprises responding to an action to seek for judicial remedies concerning the anti-dumping rulings in the investigation country or region;

(6) to provide services about the information about lawyer , and establishing a lawyer information database;

(7) to regularly publicize the administrative review cases that will become due in the present year and other information on the International Business Daily and its own website; and

(8) other work which needs the coordination of the industrial organization.

Article 13 An industrial organization shall, in accordance with

Article 12, institute and promulgate the operation regulations for the coordination of the industrial organization to the responding work to action.

Article 14 Where an industrial organization has uniformly coordinated to employ the lawyers in accordance with the request of the enterprises

responding to an action, it shall follow the principles of openness, fairness and transparency to select better lawyers. Where the enterprises responding to an action employ lawyers by themselves and so there are two or more law firms who work for the same case, the industrial organization shall coordinate the work of all the said law firms during the whole process of the responding work to action, so as to ensure the effects of the whole industry on responding work to action.

Article 15 Those lawyers and law offices which have worked for the investigation country or region as agents to try for launching the investigations of trade remedy measures aiming at Chinese products within 3 years before an anti-dumping case is placed on file shall not participate in the lawyers' bidding and competition. The industrial organization shall notify to the enterprise responding to an action of the lawyers and law offices which have ever seriously affected or damaged the interests of the enterprises or industry of China in their agency activities.

Article 16 An industrial organization shall consult the Ministry of Commerce when coordinating the responding work in the following cases:

(1) The products involved in the case has a relatively large export amount within the investigation period;

(2) The products involved in the case has a relatively large market share or a great effect in the investigation country or region;

(3) Consensus about organizing coordinating the responding work to action could not be formed among industrial organizations, and which may affect the results of the responding work to the case;

(4) The investigation organ implements discriminatory policies or investigation methods to the enterprises of China; and

(5) Any other important case needs to consult.

Article 17 The local competent commercial departments shall do a good job in the statistical work concerning the information of the anti-dumping cases which the local enterprises are involved in, establish an information reporting system, and evaluate the effects of the anti-dumping of foreign countries against their local export trade; and regularly organize the trainings on the legal knowledge about anti-dumping, institute the policies and measures which can promote the responding work to anti-dumping cases in accordance with the actual situation of its own region; and coordinate the responding work to action by the enterprises involved within its own jurisdiction upon the request of the industrial organization.

Article 18 All the embassies (consulates) abroad and economic and commercial counselor's offices (rooms) shall timely follow up and collect the information about the revision of anti-dumping laws of foreign countries, the anti-dumping case placed on file or review developments as well as other relevant information.

Article 19 The Ministry of Commerce shall be responsible for the interpretation of the present Provisions.

Article 20 The present Provisions shall enter into force as of August 14, 2006. The Provisions on Responding to Anti-dumping Actions of Export Products (Wai Jing Mao Bu Ling [2001] No.5) shall be simultaneously abolished.

（Ⅴ）Rules for Investigation on Trade Barrier

Chapter I General Principles

Article 1 For the purposes of developing and regulating trade barrier investigation, eliminating the adverse effect of trade barriers on China's foreign trade, and promoting normal development of foreign trade, the Rules are formulated pursuant to the Foreign Trade Law of the People's Republic of China.

Article 2 The Ministry of Commerce (hereinafter referred to as "MOFCOM") is responsible for trade barrier investigation.

MOFCOM designates Bureau of Fair Trade for Imports& Exports be responsible for the enforcement of the Rules.

Article 3 A measure or practice maintained or supported by the government of a foreign country (region) should be deemed as a trade barrier where one of the circumstances as follows occurs:

(1) it violates an economic or trade treaty or agreement which is signed by the said country (region) and China, or to which the said country (region) and China are parties to, or constitutes a failure of implementing the obligations set forth by an economic or trade treaty or agreement which is signed by the said country (region) and China, or to which the said country (region) and China are parties to;

(2) it results in one of adverse impacts as follows:

a) causing or threatening to cause hindrance or restriction to the access of the products or services of China to the market of the said country (region) or a third country (region);

b) causing or threatening to cause injury to the competitiveness of the products or services of China in the market of the said country (region) or a third country (region);

c) causing or threatening to cause hindrance or restriction to the export of the products or services of the said country (region) or a third country (region) to China.

Article 4 MOFCOM may initiate an investigation on trade barrier upon application of the applicant.

MOFCOM may initiate an investigation of trade barriers as it deems necessary.

Chapter II Application of Investigation

Article 5 Any domestic enterprise and industry, or natural person, legal person or other organization representing a domestic enterprise or industry (hereinafter referred to as "the applicant") may file an application of trade barrier investigation with MOFCOM.

For the purposes of the above paragraph, “domestic enterprise and industry” shall be the enterprise or industry that has a direct bearing with supply of the products or services related to the alleged trade barrier.

Article 6 The application for trade barrier investigation shall be filed in written form.

Article 7 The complaint shall contain information as follows:

(1) name, address and relevant information of the applicant;

(2) a description of the alleged measure or practice;

(3) a description of the products or services to which the alleged measure or practice is against;

(4) a general description of relevant domestic industries;

(5) if any, a description of the adverse impact which the alleged measure or practice has caused;

(6) other information that the applicant considers as necessary.

Chapter III Examination and Initiation

Article 8 The complaint shall, to its best, contain the evidential materials as follows, and identify their sources:

(1) the evidential materials in proof of the existence of the alleged measure or practice in question;

(2) the evident materials in proof of the adverse impact caused by the alleged measure or practice.

Any applicant that are unable to provide above evidential materials shall explain the reason in written form.

Article 9 Any applicant may withdraw the application before MOFCOM makes the decision of initiation.

Article 10 MOFCOM shall, within 60 days from the date of the receipt of the complaint and relevant evidential materials, examine the application materials, and make the decision on initiation.

Article 11 In the process of examination, MOFCOM may request the applicant to provide supplementary materials within a fixed time limit.

Article 12 If the application materials submitted by the applicant are in accordance with the provisions of Article 6 and Article 7 of the Rules, and the circumstances provided by Article 16, Paragraph 1, 3 and 4 do not exist, MOFCOM shall decide to initiate an investigation and publish the decision by

notice

MOFCOM shall publish the notice of initiation where it decides to initiate an investigation sua sponte.

Article 13 The notice of initiation shall contain the information of the alleged measure or practice, the products or services which the alleged measure or practice is against, the country (region) that maintains the alleged measure or practice (hereinafter referred to as "the alleged country (region)"),etc., a brief description of the known information, and the time limit for opinion presentation by the interested parties and comment by the public.

Article 14 MOFCOM shall, after publication of the notice of initiation, notify the applicant, known exporter and importer, the government of the alleged country (region) and other interested parties.

Article 15 The date of publication of the notice of initiation shall be the date of initiation.

Article 16 MOFCOM may make a decision not to initiate an investigation where one of the circumstances as follows occurs:

(1) the description in the application materials submitted by the applicant does not, in an obvious manner, conform with the facts; or

(2) the application materials submitted by the applicant are not complete, and the applicant fails to provide supplementary materials within the time limit set by MOFCOM; or

(3) the alleged measure or practice does not, in an obvious manner, constitute the trade barrier provided by Article 3 of the Rules; or

(4) other circumstance that MOFCOM deems it shall not initiate an investigation.

Article 17 MOFCOM shall notify the applicant the decision of not initiating an investigation in written form, and explain the reasons thereof.

Chapter IV Investigation and Determination

Article 18 MOFCOM shall determine, by investigation, whether the alleged measure or practice constitutes a trade barrier defined by Article 3 of the Rules.

Article 19 In the process of investigation, MOFCOM may use any relevant information that it collects on its own initiative.

Article 20 Where MOFCOM deems necessary, an advisory group may be formed, consisting of officials from relevant departments of the State Council, experts and scholars. The advisory group is responsible for providing advisory opinions on technical and legal issues relating to the investigation.

Article 21 For the purposes of the investigation, MOFCOM may collect information from interested parties with the means of, inter alia, questionnaires and public hearings.

Article 22 Where MOFCOM deems necessary and with consent of the government of the alleged country (region), MOFCOM may send officials to the alleged country (region) to conduct investigations and evidence collection.

Article 23 Where an interested party considers that any disclosure of the materials that it provides will cause significantly adverse effects, it may request MOFCOM for confidential treatment of the above information.

Article 24 Where it deems the request for confidential treatment as justifiable, MOFCOM shall grant confidential treatment to the materials provided by the interested party, and require the interested party to provide a non-confidential summary thereof.

Without permission of the interested party that provides the materials, MOFCOM shall not use the materials to which confidential treatment is granted for any purpose other than the trade barrier investigation in question.

Article 25 In the process of investigation, MOFCOM may hold consultations with the government of the alleged country (region) on the alleged measure or practice.

Article 26 MOFCOM may decide to suspend the investigation and publish it by notice where one of the circumstances as follows occurs:

(1) the government of the alleged country (region) is committed to cancellation of or adjustment to the alleged measure or practice within a reasonable time limit; or

(2) the government of the alleged country (region) is committed to proper trade compensation to China within a reasonable time limit; or

(3) the government of the alleged country (region) is committed to performance of the obligations set forth by the economic or trade treaty or agreement; or

(4) other circumstance that MOFCOM deems it may suspend the investigation.

Article 27 Where the government of the alleged country (region) fails to fulfill the commitment mentioned in Article 26, Paragraph 1,2 and 3 of the Rules, MOFCOM may resume the investigation. Where an investigation is suspended according to Article 26, Paragraph 4, after the elimination of the provided circumstances, MOFCOM may resume the investigation.

Article 28 MOFCOM may terminate the investigation at request of the applicant, unless it deems that the termination of the investigation will not be in the public interests.

Article 29 MOFCOM shall terminate the investigation and publish it by notice where one of the circumstances as follows occurs:

(1) the government of the alleged country (region) has canceled or adjusted the alleged measure or practice; or

(2) the government of the alleged country (region) has provided China with proper trade compensation; or

(3) the government of the alleged country (region) has performed the obligations of the economic or trade treaty or agreement.

Article 30 MOFCOM may terminate the investigation and publish it by notice where one of the circumstances as follows occurs:

(1) the applicant does not provide necessary cooperation in the process of investigation; or

(2) other circumstance that MOFCOM deems it may terminate the investigation.

Article 31 After investigation, MOFCOM shall make a determination on whether the alleged measure or practice constitutes the trade barrier provided by Article 3 of the Rules, and publish a notice thereof.

Article 32 A trade barrier investigation shall be completed within 6 months as of the date of notice of initiation. In special circumstances, the investigation may be extended, but the extension shall not exceed 3 months.

Article 33 If the alleged measure or practice is determined to constitute a trade barrier provided by Article 3 of the Rules, MOFCOM shall take measures as follows according to the circumstances:

(1) to conduct bilateral consultations;

(2) to commence actions in multilateral dispute settlement mechanism;

(3) to take other proper measures.

Chapter V Supplementary Provisions

Article 34 The public notice issued according to the Rules shall contain, inter alia, important information, facts, reasons, legal basis, findings and conclusions.

Article 35 The investigation on foreign investment barrier shall be implemented with reference to the Rules.

Article 36 The power of interpretation of the Rules shall be vested in MOFCOM.

Article 37 The Rules shall enter into force as of 1 March, 2005.

（Ⅵ）Implementating Provisions of the Ministry of Commerce of the Administrative Reconsideration Regulation

Article 1: The measures are enacted in accordance with the "Administrative Reconsideration Law of the People's Republic of China" (hereafter referred to as "Administrative Reconsideration Law") and with a view to preventing and correcting illegal or improper executive acts, safeguarding the legitimate rights and interests of citizens, legal persons and other organisations, ensuring that the administrative authorities of domestic and international trade as well as international economic cooperation execute their authority on the basis of law and supervising their work.

Article 2: The Ministry of Commerce performs its functions of Administrative Reconsideration on the basis of the stipulations in "Administrative Reconsideration Law" and the Measures. The legal authority of the Ministry of Commerce (the Department of Treaties and Laws) is specifically in charge of Administrative Reconsideration of the Ministry of Commerce and fulfils the obligations stipulated in Article 3 of the "Administrative Reconsideration Law".

Article 3: Applications for Administrative Reconsideration can be made to the Ministry of Commerce in the case of any complaint against the following executive acts:

(1) specific executive acts by the Ministry of Commerce;

(2) specific executive acts made by dispatched authorities of the Ministry of

Commerce in their own name in accordance with law, rules and regulations;

(3) specific executive acts of organizations directly administrated by the Ministry of Commerce and authorized by laws and regulations;

(4) applications for Administrative Reconsideration can be made to the Ministry of Commerce or to the people's governments of the provinces, autonomous regions or municipalities directly under the central government in the case of complaints against specific executive acts by the administrative authorities on domestic and international trade and international economic cooperation at the provincial level.

Article 4: The party applying for Administrative Reconsideration in written form shall submit an original copy of the application for Administrative Reconsideration and a number of duplicates for all the parties on whose acts reconsideration is made. The application shall include the following:

(1) the name, profession, address of the applicant and his agent (the name and address of the legal person and other organisations and the name of the legal representative)

(2) the name and address of the party on whose act reconsideration is made;

(3) specific requests for reconsideration;

(4) main facts and reasons (including the time of getting to know he specific executive acts);

(5) the date of applying for Administrative Reconsideration.

The application for reconsideration shall be signed by the applicant or his legal representative (or authorised agent) and bear the seal with necessary evidence attached. If the applicant is natural person, then he shall submit a copy of his

ID card or other valid identification. If the applicant is a legal person or other organisations, it shall submit a copy of the business license or other valid identification as well as the identification of the legal representative.

Article 5: Citizens, legal persons or organisations with an interest in the specific executive act involved in the application of Administrative Reconsideration may apply to participate in the reconsideration as a third party. They shall make their application in written form, which must obtain the approval from the Ministry of Commerce.

When necessary, the Ministry of Commerce can notify other citizens, legal persons or organisations as third parties to participate in the Administrative Reconsideration if they have an interest in the specific executive act about which an application of reconsideration is made.

Article 6: When applying for administrative reconsideration to the Ministry of Commerce, the applicant shall go through the application procedures with the legal authority of the Ministry of Commerce. The legal authority shall specify on the application the date of receipt and give it to the person who submits it for confirmation signature.

Article 7: Within five working days of receiving the application, the legal authority of the Ministry of Commerce shall examine it on the basis of the "Administrative Reconsideration Law" and make decision in accordance with law on whether or not accept this application.

The application will be considered as being accepted as of the date of its arrival at the legal authority of the Ministry of Commerce, except that a decision of not accepting it is made in accordance with law or a notification is made to the applicant to apply to other authorities for Administrative Reconsideration.

Article 8: The application will not be accepted and the applicant will be notified in one of the following circumstances:

(1) the event for reconsideration does not fall within the scope of Article 6 of the "Administrative Reconsideration Law";

(2) the applicant is not a eligible legitimate body for applying for reconsideration;

(3) the applicant makes a wrong list of the parties on whose acts reconsideration is made and refuses to rectify;

(4) the application exceeds the legal time limit without proper reasons;

(5) before making the application, the applicant has started administrative lawsuit which has been accepted or is waiting for a decision of acceptance from the court;

(6) the applicant has applied for Administrative Reconsideration to another authority which has accepted the application in accordance with law;

(7) having withdrawn the application, the applicant applies once again for reconsideration without proper reasons;

(8) the applicant transcends the administrative jurisdiction for higher level's Reconsideration (exclusive of the situation stipulated in Article 20 of the "Administrative Reconsideration Law");

(9) the application does not meet other legal requirements.

Article 9: Within seven working days of accepting the application for Administrative Reconsideration, the legal authority of the Ministry of commerce shall send the duplicate of the application or a xeroxed copy of the notes of the application to the party on whose act reconsideration is made,

which shall, within ten days of acceptance, submit a written reply and evidence, basis and other relevant materials supporting the made specific executive act.

The written reply shall include the following materials:

(1) basic information about the party on whose act reconsideration is made (exclusive of the situation in which the party is just the Ministry of Commerce);

(2) the event leading to the reply, the process and situation of the case;

(3) factual evidence and relevant materials supporting the made specific executive act;

(4) specific terms and contents of the laws, rules, codes and regulatory documents on which the specific executive act is based;

(5) the time of reply.

The written reply shall bear the official seal of the party which makes the reply; if the reply is made by the Ministry of Commerce, it shall bear the seal of the department which performs the specific executive act.

Article 10: If the party on whose act reconsideration is made does not, as stipulated in Article 23 of the "Administrative Reconsideration Law" and Article 10 of the Measures, make a written reply or submit evidence, basis or other relevant materials supporting the made specific executive act, the act will be regarded as not supported by evidence or basis and a decision of revoking the executive act will be made.

Article 11: In principle, Administrative Reconsideration will be conducted in the form of written examination. If the case is complicated and therefore cannot be clarified by written examination, other methods can be taken such as

listening to the parties concerned, investigating on the ground, asking testing and authentication to be performed by specialized agencies.

Article 12: In the process of Administrative Reconsideration, the party on whose act reconsideration is made or its agent shall not collect evidence from the applicant or other organisations or individuals. Nor shall they use facts or evidence discovered after the specific executive act was made as the basis for the act.

Article 13: The legal authority shall perform examination on the made specific executive act and put forward an opinion. After the opinion is approved by principals of the Ministry of Commerce or adopted through collective discussions, a decision of Administrative Reconsideration will be made as stipulated in Article 28 of the "Administrative Reconsideration Law".

Article 14: If the applicant makes a claim for administrative compensation together with the application for Administrative Reconsideration, the claim and its factual evidence and proper reasons shall be specified as stipulated in Article 12 of the "State Compensation Law of the People's Republic of China". If the claim is justified in accordance with the Compensation Law, the Administrative Reconsideration authority shall, when making the decision of revoking or modifying a specific executive act or affirming that the act is in breach of laws, make the decision that the party on whose act reconsideration is made shall make compensation on the basis of law.

Article 15: The Measures shall be subject to the interpretation of the Ministry of Commerce. The Measures will come into effect as of July 1, 2004.

IV. Judicial Review

（Ⅰ）Provisions of The Supreme People's Court on Several Issues Concerning the Hearing of International Trade Administrative Cases

(Adopted at the 1239th Meeting of the Judicial Committee of the Supreme People's Court on August 27, 2002 Interpretation No.27 [2002] of the Supreme People's Court)

In order to hear the international trade administrative cases justly and duly pursuant to law, these Provisions are formulated in accordance with the Administrative Procedure Law of the People's Republic of China (hereinafter referred to as Administrative Procedure Law), the Legislation Law of the People's Republic of China (hereinafter referred to as Legislation Law), and other relevant laws.

Article 1 The following cases are the international trade administrative cases as used in these Provisions:

(1) Administrative cases relating to international goods trade;

(2) Administrative cases relating to international service trade;

(3) Intellectual property administrative cases relating to international trade;

(4) Other international trade administrative cases.

Article 2 The administrative tribunal of a people's court shall hear the international trade administrative cases.

Article 3 If a natural person, legal person or other organization believes that the specific administrative acts relating to international trade conducted by the body or organization with administrative powers, as well as the staff thereof, of the People's Republic of China (hereinafter referred to as administrative body) have infringed upon his/its legitimate rights and interests, he/it may file an administrative action with the people's court pursuant to the Administrative Procedure Law as well as other relevant laws and regulations.

Article 4 If the acts of the party occurred before a new law takes effect and the administrative body made the decision of administrative treatment after that, the party may file the administrative action pursuant to the new law.

Article 5 International trade administrative cases of the first instance shall be under the jurisdiction of the people's courts at the intermediate level or above with the jurisdiction.

Article 6 In the hearing of an international trade administrative case, a people's court shall make the legality examination of the accused specific administrative acts in the following aspects pursuant to the administrative procedure law and in light of the specific details of the case:

(1) Whether the major evidence is true and adequate;

(2) Whether the application of law is correct;

(3) Whether there is any violation of legal procedures;

(4) Whether there is any transgression of competence;

(5) Whether there is any misuse of authority;

(6) Whether the administrative punishment is obviously unjust;

(7) Whether there is any failure to perform or delay in performing the legal duties.

Article 7 According to Paragraph 1 of Article 52 of the Administrative Procedure Law and Paragraphs 1 and 2 of Article 63 of the Legislation Law, a people's court shall, in the hearing of international trade administrative cases, follow the laws and administrative regulations of the People's Republic of China, as well as the local regulations, which relate to or affect the international trade, enacted by the local legislatures within the statutory legislative authority.

Article 8 According to Paragraph 1 of Article 53 of the Administrative Procedure Law and Articles 71, 72 and 73 of the Legislation Law, a people's court shall, in the hearing of international trade administrative cases, refer to the departmental regulations, which relate to or affect the international trade, enacted by the departments under the State Council within their respective authority in accordance with laws and the administrative regulations, decisions and orders of the State Council, and shall refer to the regulations of local governments, which relate to or affect the international trade, enacted by the people's governments of the provinces, autonomous regions, municipalities directly under the Central Government, cities where the people's governments of the provinces and autonomous regions are located, cities where the special economic regions are located, and relatively

large cities approved by the State Council in accordance with the laws, administrative regulations and local regulations.

Article 9 If there are two or more reasonable interpretations for a specific

clause of the law or administrative regulation applied by a people's court in the hearing of an international trade administrative case, and among which one interpretation is consistent with the relevant provisions of the international treaty that the PRC concluded or entered into, such interpretation shall be chosen, with the exception of the clauses on which the PRC claims reservation.

Article 10 Foreigners, persons without nationalities or foreign organizations that participate in international trade administrative cases within the PRC shall enjoy the same litigation rights and assume the same litigation obligations as those of the citizens and organizations of the PRC, however, in the situation provided for in Paragraph 2 of Article 71 of the Administrative Procedure Law, the principle of reciprocity shall apply.

Article 11 International trade administrative cases involving parties from Hong Kong Special Administrative Region, Macao Special Administrative Region and Taiwan area shall be handled with reference to these Provisions.

Article 12 These Provisions shall come into force on October 1, 2002.

(Ⅱ) Rules of the Supreme People's Court on Certain Issues Related to Application of Law in Hearings of Antidumping Administrative Cases

(Adopted at the 1242nd Session of the Trial Committee of the Supreme People's Court on 11 September 2002)

Pursuant to the Administrative Procedure Law of the People's Republic of China and other relevant laws, these rules shall be enacted and construed for People's Court to justly hear antidumping administrative cases in accordance with law.

Article 1 People's Court shall, in accordance with law, accept an administrative action against any of the following administrative acts in antidumping proceedings:

(1) A final determination on dumping and dumping margin, or injury and the extent of injury; "

(2) A decision on whether to impose an antidumping duty, retroactive imposition of an antidumping duty, reimbursement of an antidumping duty or, imposition of an antidumping duty on new exporters;

(3) The results of an administrative review on the retention, revision or termination of an antidumping duty or a price undertaking;

(4) Other actionable administrative acts in antidumping proceedings according

to the law and regulations.

Article 2 An interested party, as defined to be an individual or organization having legal interests in a specific administrative act in antidumping proceedings, may commence an action in People's Court pursuant to the administrative procedure law and other relevant law and administrative regulations.

For the purpose of the preceding paragraph, "an interested party" means any applicant who files a written application to the administering authority under the State Council for an antidumping investigation, any exporter or importer involved in the corresponding antidumping proceedings, or any other natural person, legal person and other organization having legal interests thereon.

Article 3 The defendant of a specific antidumping administrative case shall be an administering authority under the State Council, who conducts the contested administrative acts in the corresponding antidumping proceedings.

Article 4 Other administering authorities under the State Council may, with their legal interests in the contested administrative acts in antidumping proceedings, intervene into the action as the third party.

Article 5 The following People's Courts have jurisdiction as the courts of the first instance over an antidumping administrative case:

(1) An Interim People's Court designated by a specific Superior People's Court whose territorial jurisdiction covers the location of the defendant;

(2) A Superior People's Court whose territorial jurisdiction covers the location of the defendant.

Article 6 People's Court shall, in hearing an antidumping administrative case, review the legality of any factual finding and legal conclusion upon which the

contested administrative act in antidumping proceedings is based. For the purpose of such a review, People's court shall base on the administrative procedural law and other antidumping law and administrative regulations, and shall also take as reference the regulations and rules of the ministries and commissions under the State Council.

Article 7 The defendant shall have the burden of proof for the contested administrative act he has undertaken in antidumping proceedings. For this purpose, the defendant shall furnish the supporting evidence and regulatory documents on which his administrative act in this regard is based.

For the purpose of reviewing the legality of the contested administrative act in antidumping proceedings, People's Court shall rely on the evidence on record furnished by the defendant to undertake the contested act. Any factual material not on record is not admissible, and shall not be relied on by People's Court to hold lawful the contested act.

Article 8 The plaintiff shall have the burden of proof for the facts he has asserted. Where the evidence offered by the plaintiff is found by People's court to be relevant, legitimate and authentic through legal procedure, such evidence may be deemed admissible.

People's Court shall deem inadmissible any evidence submitted by the plaintiff in the action if, in the preceding antidumping investigation and upon request by the defendant through legal procedure, the plaintiff rejects to offer such evidence under no justifiable grounds, fails to offer the authentic one, or severely impedes the process of the investigation in other way.

Article 9 The evidence, available to the administering authorities under the State Council, shall be deemed sufficient for them to establish a factual finding for an antidumping investigation where, upon request by the defendant through legal process, the interested parties reject to offer certain evidences under no

justifiable grounds, fail to offer the authentic ones, or severely impede the process of the investigation in other ways.

Article 10 For the purpose of hearing antidumping administrative cases. People's Court shall, under the varying conditions, render the following judgments respectively:

(1) A judgment to sustain the contested administrative act in antidumping proceedings, under which the supporting evidence is sufficient and conclusive, the law and regulations are accurately applied, and the legal procedure is fully complied with.

(2) A judgment to annul or partially annul the contested administrative act in antidumping proceedings, or remand it for the defendant to make a new determination, should the contested act be under any of the conditions as below:

a) inadequacy of essential evidence;

b) erroneous application of the law or administrative regulations;

c) violation of legal procedure;

d) absence of authority;

e) abuse of executive power.

(3) Any other judgment rendered in accordance with the law and judicial interpretations.

Article 11 For the purpose of hearing an antidumping administrative case, People's Court may take, as reference, the provisions concerning the foreign-related civil procedures.

Article 12 These rules shall be effective as of 1 January 2003.

(Ⅲ) Rules of the Supreme People's Court on Certain Issues Related to Application of Law in Hearings of Countervailing Administrative Cases

(Adopted at the 1242nd Session of the Trial Committee of the Supreme People's Court on 11 September 2002)

Pursuant to the Administrative Procedure Law of the People's Republic of China and other relevant laws, these rules shall be enacted and construed for People's Court to justly hear countervailing administrative cases in accordance with law.

Article 1 People's Court shall, in accordance with law, accept an administrative action against any of the following administrative acts in countervailing proceedings:

(1) A final determination on subsidy and the amount of subsidy, or injury and the extent of injury; "

(2) A decision on whether to impose a countervailing duty, retroactive imposition of a countervailing duty;

(3) The results of an administrative review on the retention, revision or termination of a countervailing duty or a price undertaking;

(4) Other actionable administrative acts in countervailing proceedings according to the law and regulations.

Article 2 An interested party, as defined to be an individual or organization having legal interests in a specific administrative act in countervailing proceedings, may commence an action in People's Court pursuant to the administrative procedure law and other relevant law and administrative regulations.

For the purpose of the preceding paragraph, "an interested party" means any applicant who files a written application to the administering authority under the State Council for a countervailing investigation, any exporter or importer involved in the corresponding countervailing proceedings, or any other natural person, legal person and other organization having legal interests thereon.

Article 3 The defendant of a specific countervailing administrative case shall be an administering authority under the State Council, who conducts the contested administrative acts in the corresponding countervailing proceedings.

Article 4 Other administering authorities under the State Council may, with their legal interests in the contested administrative acts in countervailing proceedings, intervene into the action as the third party.

Article 5 The following People's Courts have jurisdiction as the courts of the first instance over a countervailing administrative case:

(1) An Interim People's Court designated by a specific Superior People's Court whose territorial jurisdiction covers the location of the defendant;

(2) A Superior People's Court whose territorial jurisdiction covers the location of the defendant.

Article 6 People's Court shall, in hearing a countervailing administrative case, review the legality of any factual finding and legal conclusion upon which the contested administrative act in countervailing proceedings is based. For the purpose of such a review, People's court shall base on the

administrative procedural law and other countervailing law and administrative regulations, and shall also take as reference the regulations and rules of the ministries and commissions under the State Council.

Article 7 The defendant shall have the burden of proof for the contested administrative act he has undertaken in countervailing proceedings. For this purpose, the defendant shall furnish the supporting evidence and regulatory documents on which his administrative act in this regard is based.

For the purpose of reviewing the legality of the contested administrative act in countervailing proceedings, People's Court shall rely on the evidence on record furnished by the defendant to undertake the contested act. Any factual material not on record is not admissible, and shall not be relied on by People's Court to hold lawful the contested act.

Article 8 The plaintiff shall have the burden of proof for the facts he has asserted. Where the evidence offered by the plaintiff is found by People's court to be relevant, legitimate and authentic through legal procedure, such evidence may be deemed admissible.

People's Court shall deem inadmissible any evidence submitted by the plaintiff in the action if, in the preceding countervailing investigation and upon request by the defendant through legal procedure, the plaintiff rejects to offer such evidence under no justifiable grounds, fails to offer the authentic one, or severely impedes the process of the investigation in other way.

Article 9 The evidence, available to the administering authorities under the State Council, shall be deemed sufficient for them to establish a factual finding for a countervailing investigation where, upon request by the defendant through legal process, the interested parties reject to offer certain evidences under no justifiable grounds, fail to offer the authentic ones, or severely impede the process of the investigation in other ways.

Article 10 For the purpose of hearing countervailing administrative cases. People's Court shall, under the varying conditions, render the following judgments respectively:

(1) A judgment to sustain the contested administrative act in countervailing proceedings, under which the supporting evidence is sufficient and conclusive, the law and regulations are accurately applied, and the legal procedure is fully complied with.

(2) A judgment to annul or partially annul the contested administrative act in countervailing proceedings, or remand it for the defendant to make a new determination, should the contested act be under any of the conditions as below:

a) inadequacy of essential evidence;

b) erroneous application of the law or administrative regulations;

c) violation of legal procedure;

d) absence of authority;

e) abuse of executive power.

(3) Any other judgment rendered in accordance with the law and judicial interpretations.

Article 11 For the purpose of hearing a countervailing administrative case, People's Court may take, as reference, the provisions concerning the foreign-related civil procedures.

Article 12 These rules shall be effective as of 1 January 2003.