

Provisions on the Anti-dumping Investigation of Industry Injury

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Chapter I. General Provisions

Article 1 The present Provisions are formulated in accordance with the Antidumping Regulation of the People's Republic of China (hereinafter referred to as Antidumping Regulation), with the aim to regulate the antidumping investigation of industry injury.

Article 2 The present Provisions shall apply to the activities related to the antidumping investigation of industry injury in accordance with the Antidumping Regulation.

Article 3 The Ministry of Commerce of the People's Republic of China (MOFCOM) shall take charge of the antidumping investigations of industry injury. As for the antidumping investigations of industry injury related to agricultural products, the responsibility shall be undertaken jointly by the MOFCOM and the Ministry of Agriculture.

Chapter II. Cognizance of Injury

Article 4 The term "industry injury" refers to an actual injury or a risk of actual injury to the existing domestic industry, or actual encumbrance of the establishment of a domestic industry resulted from dumped imports.

The term "actual injury" as stated in the present Provisions refers to the non-negligible injury caused by dumped imports to an established domestic industry.

The term "risk of actual injury" means that no actual injury has been caused to the domestic industry, but there is evidence showing that an actual injury to the domestic industry is clearly foreseeable and imminent unless measures are taken against it.

The term "actual encumbrance" means that the dumped imports have not resulted in actual injury or have not formed a risk of actual injury to the domestic industry, but has seriously retarded the establishing process of domestic industry.

Article 5 In the Cognizance of the injury caused to the domestic industry by dumped imports, the following matters shall be investigated:

- (1) The volume of the dumped imports and the consequential effect dumped imports on the price of domestic kindred products;
- (2) The consequential effect of the dumped imports on domestic industry.

Article 6 The investigation of dumped imports shall involve whether there has been a significant increase in dumped imports either in absolute terms or relative to the production or the consumption of the domestic kind products.

The investigation of the consequential impact of dumped imports on the price of domestic like products shall involve whether there has been a significant price reduction of the dumped imports or whether the dumped imports have resulted in a significant depression in the price of the domestic like product or prevented price increase of the domestic like products that would have occurred.

Article 7 The investigation of the impact of the dumped imports on the domestic industry shall involve an assessment of all relevant economic factors and indicators which have influences on the situation of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investment, or equipment utilization, the factors that have influences on domestic prices, the amplitude of the dumped imports; the actual or potential adverse effects on the inventories, employment, wages, growth, ability to raise capital or to make investment etc.

Article 8 The determination of an actual injury shall be based on the clearly foreseeable and imminent situation, in which if no measures are taken, an actual injury will occur. The determination of a risk of actual injury shall be based on facts, rather than simply on complaints, conjectures or the least possibility.

Moreover, when determining a risk of actual injury, investigations shall be made but not limited to the factors as follows:

- (1) Significant increase rate showing a likely actual increase of dumped imports;
- (2) The capability of the exporters to use fully and freely or of potential actual increase, which shows a likely actual increase of dumped exports entering the market of the importing members. In the use of this indicator, one should consider the factor whether there are any other export markets that may take in any additional exports;
- (3) Whether the imported product are being imported in prices of significant depression or suppression of prices of domestic like product, which is likely to cause an increase of the demands of imports;
- (4) The inventories of the products under investigation.

Article 9 When determining an actual encumbrance of the establishment of a domestic industry, the investigation shall, in addition to the factors listed in Article 8 , be made but not limited to the factors as follows:

- (1) The foundation and the related preparatory work of the domestic industry;
- (2) The increase of domestic demands and the consequential effects;
- (3) The impact of the dumped imports on the domestic market;
- (4) The follow-up productivity of the dumped imported product and the development trends in the domestic market.

Article 10 like product refers to a product that is identical to, or in the absence of such a product, one that has characteristics closest to those of the imported dumped product in question.

Article 11 In the determination of like products, such factors shall be taken into account as the physical characteristics of the products, chemical features, manufacturing equipment and techniques, purposes of use, substitutability, appraisal of consumers and producers, distribution channels, and prices, etc.

Article 12 The influence of the dumped imports on domestic industry shall be assessed on the basis of the separate definition of the production of the domestic like product. If, on the basis of the techniques of production and the producers' sales and profits, one cannot distinguish the production of domestic like product from the production of other products, the influence of dumped imports shall be determined by reference to the production of the narrowest product group or scope which include the domestic like product insofar as the product group or scope can provide sufficient information.

Article 13 In the determination of a domestic industry, one should consider all the producers of the domestic like product in China, or the producers whose total output forms the principal part of the total output of the domestic like product; however, if a domestic producer is associated with an export business operator or import business operator, or he himself is an import business operator of the dumped imports, he may be not be considered as the domestic industry.

The term "is associated with" mentioned above means that one party directly or indirectly controls or influences another, or both parties are controlled or influenced by a third party, or both parties jointly control or influence a third party in a direct or an indirect way.

Article 14 In the determination of a regional industry, the following factors shall be considered:

(1) The producers sell all of or nearly all of the like products manufactured by them in this regional market;

(2) The demands of the regional market aren't satisfied or aren't mainly satisfied by the like-product producers in other domestic areas; and

(3) Other factors.

Article 15 An accumulative evaluation of the influence of dumped imports on the domestic industry may be made if the dumped imports come from two or more countries (regions) and simultaneously meet requirements as follows:

(1) The dumping margin is not less than 2% and the volume of dumped imports isn't negligible;

(2) It is reasonable to make an accumulative evaluation according to the competition conditions among the dumped imports and those between the dumped imports and the domestic like products,.

(3) The term "negligible" mentioned above means that the volume of the dumped imports from a country (region) is considered negligible if it accounts for below 3% of the total volume of the imported like product, but excluding the circumstance that countries which individually account for below 3% collectively account for more than 7% of the total volume of imports of like products.

Article 16 In an accumulative assessment, the following factors shall be considered:

(1) The continuity and possibility of the influence of dumped imports from different countries (regions) on the domestic industry;

(2) The substitutability between the dumped imports from different countries and the domestic like product, including such factors as the demands of special clients, product quality and so on;

(3) The sales prices, quoted prices of the sells and actual transactions prices of the dumped imports from different countries (regions) and the domestic like product in the markets of a same area;

(4) Whether there are identical or similar distribution channels for a dumped product imported from different countries (regions) and the domestic like product, and whether they occur in the market simultaneously;

(5) Other competition conditions that exist among the dumped imports and between the dumped import product and the domestic like product; and

(6) Other factors.

Article 17 In the investigation of industry injury, the MOFCOM shall give users or consumers of the dumped imports an opportunity to present their views and evidences.

Article 18 The period subject to antidumping investigation of industry injury shall generally be 3-5 years before the investigation commences.

Chapter III. Industry Injury Investigation

Article 19 When any interested party applies for answering the antidumping investigation of industry injury, it shall apply to the MOFCOM within 20 days from the day when an announcement on the initiation of antidumping investigation of industry injury is made, and shall carry out relevant registration formalities. At the same time, the applicant shall offer the information related to its productivity, output, inventories, construction and expansion plans, the volume and amount of the product exported to China, the volume and amount of the product imported by the import business operators.

Article 20 The interested parties may be:

(1) overseas producers, export business operators, and domestic import business operators of the products under investigation, or guilds or other organizations of the producers, export business operators and import business operators of the products under investigation;

(2) the government of the country (region) of origin and the export country (region) of the products under investigation as well as the representatives thereof;

(3) producers and business operators of domestic like products, or guilds or other organizations of the producers and business operators of the products; or

(4) others.

Article 21 An interested party who is involved in the investigation shall present his identification certificate. In the case that the interested party is an enterprise or any other organization, it shall submit its business license and other registration certificates, and the identification certificate of the legal representative.

In the case that an interested party entrusts an agent to deal with the matter under investigation, it shall present identification certificate of the agent and a power of attorney. In the case that an interested party entrusts a lawyer as his proxy, the lawyer shall serve a law firm in China and shall practice law in China, a power of attorney, the business license of the law firm and the law-practice certification of the lawyer shall be presented.

Article 22 In the antidumping investigation of industry injury, the objects of the MOFCOM include domestic producers, domestic import business operators, domestic purchasers, domestic end consumers, foreign export business operators and foreign producers, etc.

Article 23 The MOFCOM may, whenever necessary, consign experts in the fields of the relevant industry, accounting, economics, trade, and law to provide consultation services. The experts involved shall keep the secrets.

Article 24 The MOFCOM shall take such means as questionnaires, sampling, hearing, technical authentication, on-the-spot investigation and so on to make an industry injury investigation.

Article 25 The questionnaires issued by the MOFCOM to the interested parties include domestic producer questionnaires, domestic importer questionnaires, domestic consumer questionnaires, overseas producer and overseas exporter questionnaires, and other forms of questionnaires

Article 26 An interested party shall submit answers to the questionnaires according to the method and time limit as specified in the questionnaires. If it needs to extend the time limit, it shall, 7 days prior to the time limit for the submission of answers, submit a written application to the MOFCOM and make an explanation. It is for the MOFCOM to decide whether to extend the time limit or not.

Article 27 The MOFCOM may make on-the-spot investigation to the interested parties. Prior to the on-the-spot investigation, it shall notify the relevant interested parties of the major purposes and content of the examination.

Article 28 The MOFCOM may, on the requirement of the interested parties or in need of the investigation, upon the approval of the relevant country (region), consign persons to the country (region) to conduct investigations on the productive capacity, investments in expanding production, inventories, place of origin or entrepot, the link among the enterprises and other information related to the product.

Article 29 The MOFCOM may require the interested parties to submit or supplement written materials according to the relevant provisions, and the interested may offer to submit written materials to the MOFCOM as well.

Article 30 The MOFCOM may, at the request of an interested party, or whenever necessary, hold a hearing of industry injury.

Article 31 In the case that an interested party involved in the industry injury investigation considers it necessary to keep the materials and the relevant evidence secret, it shall, when submitting the materials to the MOFCOM, attach a non-confidential summary of the materials, or submit the confidential text and an open text of the materials.

The non-confidential summary and open text shall contain reasonable substantial content of the confidential information. In the absence of substantial content, the MOFCOM may request the interested party to supply relevant content and evidential materials.

Article 32 In the case that any interested party involved in the industry injury investigation fails to provide a non-confidential summary or an open texts of the materials submitted by it, or fails to provide good reasons, the MOFCOM may refuse to take the materials into account. If the MOFCOM does not considers it necessary to keep the materials submitted by an interested party secret, it might request the interested party to withdraw its application for secrecy purposes.

Article 33 In the industry injury investigation, any interested party involved shall faithfully provide the information and offer relevant materials. If any interested party fails to do so, or fails to provide necessary information within a reasonable time limit, or seriously intervene with the investigation by any other means, the MOFCOM may make a ruling based on the facts it has already obtained and the best information available.

Chapter IV. Supplementary Provisions

Article 34 As an interested party involved in the industry injury investigation submits any document or evidential material to the MOFCOM, it shall submit the original Chinese text in quintuplicate accompanied by the corresponding electronic text (computer floppy disks or CDs) in triplicate.

Article 35 Chinese language prescribed by the administrative department of languages of the state is considered as the formal language by the industry injury investigation of the MOFCOM. Any document, materials or information offered by an interested party shall be written in standard Chinese. As for any materials in any other language, a Chinese translation and the original text shall be submitted, and the Chinese version shall prevail. Any materials in any non-prevailing

language without attaching a Chinese version shall not be considered as valid and lawful evidential material.

Article 36 The authority to interpret the present Provisions shall remain with the Ministry of Commerce.

Article 37 The present Provisions shall go into effect 30 days after the date of promulgation. At the same time when the present Provisions are implemented, the Provisions on the Antidumping Investigation of Industry Injury and Award (Order No. 45 (2002) of the former State Economic and Trade Commission shall be repealed.

Provisions on the Countervailing Investigation of Industry Injury

Chapter I. General Provisions

Article 1 The present Provisions are formulated in accordance with the Countervailing Regulation of the People's Republic of China (hereinafter referred to as Countervailing Regulation) in order to regulate the countervailing investigation of industry injury.

Article 2 The present Provisions shall apply to the activities related to the countervailing investigation of industry injury in the light of the Countervailing Regulation.

Article 3 The Ministry of Commerce of the People's Republic of China (MOFCOM) shall take charge of the countervailing investigations of industry injury. As for the countervailing investigations of industry injury involving agricultural products, the responsibility shall be taken jointly by the MOFCOM and the Ministry of Agriculture.

Chapter II. Determination of Injury

Article 4 The term "industry injury" refers to an actual injury or a risk of actual injury to an existing domestic industry, or the actual encumbrance of the foundation of a domestic industry resulted from subsidies.

The term "actual injury" as stated in the present Provisions refers to the non-negligible injury that has already been caused by subsidies to an existing domestic industry.

The term "risk of actual injury" means that the subsidies hasn't resulted in actual injury to the domestic industry, but there are evidences showing that actual injury to a domestic industry is clearly foreseeable and imminent unless measures are taken against it. The term "actual encumbrance" means the retardation of the establishing process and the development of a to-be-established domestic industry, which results in the failure of the foundation of the domestic industry.

Article 5 In the determination of injury to a domestic industry resulted from subsidies, the following matters shall be investigated:

(1) The volume of the subsidized imports and the consequential influence of subsidized imports on the price of the domestic like products;

(2) The consequential influence of subsidized imports on the domestic industry.

The investigation of the subsidized imports shall involve whether there has been a great increase in the subsidized imports either in absolute terms or in relation to production or consumption of the domestic like product.

The investigation of the consequential influence of the subsidized imports on the price of the domestic like products shall involve whether there has been a significant price reduction on the

subsidized imports or whether the subsidized imports have induced a significant depression in prices of the domestic like product or prevented price increase of the domestic like product that would have happened.

Article 6 The investigation of the influence of subsidized imports on a domestic industry shall involve an assessment of all relevant economic factors and indicators which have an impact on the situation of industry. These factors and indicators include the actual and potential decline in sales, profits, output, market share, productivity, the return on investment, or equipment utilization; the factors that affect domestic prices; the amplitude of the subsidized imports; the actual or potential adverse effects on the inventories, employment, wages, growth, ability to raise capital or to make investment etc. In the case that agricultural products are involved, whether a heavier burden is placed on the government's support plans should be taken into account.

Article 7 In the determination of the actual injury to a domestic industry by subsidies, the feature of the subsidies and the consequential influence on trade shall be examined as well.

Article 8 The determination of a risk of an actual injury shall be based on clearly foreseeable and imminent situation, in which if no measure is taken, actual material injury would have occurred. The determination of a risk of an actual injury shall be based on the facts, rather than simply on complaints, conjectures or the least possibility.

Moreover, in the determination of a risk of an actual injury, examination shall be made but not limited to the factors as follows:

- (1) The feature of the subsidies and the possible consequential impact on trade;
- (2) A significant increase rate of subsidized imports showing a likely actual increase of imports;
- (3) An increase of the productivity of the producers of the subsidized imports showing a likely real increase of imports. If this indicator is adopted, one should consider the factor whether there are any other export markets that may take in any additional exports;
- (4) Whether the imported products are being imported at prices that greatly depressing or suppressing the prices of domestic like product, and it is likely to induce an increase of the demands of imports;
- (5) The inventories of the products product under investigation.

Article 9 In the determination of an actual encumbrance of the foundation of a domestic industry, examination shall be made but not limited to the factors as follows:

- (1) The foundation and the related preparatory work of the domestic industry;
- (2) The increase of domestic demands and the consequential impact;
- (3) The impact of the subsidized imports on the situation of domestic market;
- (4) The follow-up productivity of the subsidized imported product and the future tendency in the domestic market.

Article 10 Like product refers to a product that is identical to, or in the absence of such a product, one that has characteristics closely similar to those of the subsidized product under investigation.

Article 11 In the determination of like products, there are a lot of factor that may be taken into account, including the physical characteristics of the products, chemical features, manufacturing

equipment and techniques, purposes of use, substitutability, appraisal of consumers and producers, distribution channels, and price, etc.

Article 12 The impact of subsidized imports on the domestic industry shall be evaluated on the basis of a separate definition of the production of the domestic like product. If, on the basis of the techniques of production and the sales and profits of the producers, one cannot distinguish the production of domestic like product from the production of other products, the impact of subsidized imports shall be determined by reference to the production of the narrowest product group or scope which include the domestic like product insofar as the product group or scope can provide sufficient information.

Article 13 In the determination of a domestic industry, one should consider all of the producers of the domestic like product in China, or the producers whose total output forms the major part of the total output of domestic like product; however, if a domestic producer have relations with an export business operator or import business operator, or he himself is an import business operator of the subsidized imports, he may not be considered as the domestic industry.

The term "have relations with" mentioned in the preceding item means that one party controls or influences another party in a direct or an indirect way, or both parties are controlled or influenced by a third party, or both parties jointly control or affect a third party in a direct or an indirect way.

Article 14 In the determination of a regional industry, the following factors shall be considered:

- (1) The producers have sold all or nearly all of the like product manufactured by them in the regional market;
- (2) The demands of the regional market aren't satisfied or aren't mainly satisfied by the like-product producers in other domestic regions; and
- (3) Other factors.

Article 15 An accumulative evaluation of the impact of subsidized imports on domestic industry may be made if the subsidized imports come from more than two countries (regions) and meet concurrently the following requirements:

- (1) The amount of the subsidy for an imported product from a country (region) isn't minim and the volume of the imports isn't negligible;
- (2) According to the competition conditions among the subsidized imports and those between the subsidized imports and domestic like product, it is reasonable to make an accumulative evaluation.

The term "minim subsidy " mentioned in the preceding item refers to a subsidy whose amount is below 1% of the value of the product; but for the subsidized product imported from a developing country (region), minim subsidy refers to one whose amount is below 2% of the value of the product.

Article 16 In the process of the accumulative evaluation, the following factors may be considered:

- (1) The continuity and possibility of the influence of subsidized imports from different countries (regions) on the domestic industry;
- (2) The substitutability between the subsidized imports from different countries and the domestic like product, including such factors as the demands of special clients, the product quality and other related factors;

(3) The sales prices, sellers' quotations and actual transaction prices of the subsidized imports from different countries (regions) and the domestic like product in the same market of area;

(4) Whether there are identical or similar distribution channels for a subsidized product imported from different countries (regions) and the domestic like product, and whether they appear in the market simultaneously;

(5) Other competition conditions that exist among the subsidized imports and between the subsidized import product and the domestic like product; and

(6) Other factors.

Article 17 In the countervailing investigation of industry injury, the MOFCOM shall give users or consumers of the subsidized imports an opportunity to present their views and evidences.

Article 18 The period subject to countervailing investigation of industry injury shall generally be 3-5 years before the investigation commences.

Chapter III. Industry Injury Investigation

Article 19 When any interested party intends to answer the countervailing investigation of industry injury, it shall submit an application to the MOFCOM within 20 days from the day when an announcement on the initiation of countervailing investigation of industry injury is made, and shall carry out relevant registration formalities. At the same time, the applicant shall offer the documents about its productivity, output, inventories, construction and expansion plans, the volume and amount of the product exported to China, the volume and amount of the product imported by the import business operators.

Article 20 The interested parties may be:

(1) Overseas producers export business operators, and domestic import business operators of the products under investigation, or guilds or other organizations of the producers, export business operators and import business operators of the products under investigation;

(2) The government of the country (region) of origin and the export country (region) of the products under investigation as well as the representatives thereof;

(3) The producers and business operators of domestic like product, or guilds or other organizations of the producers and business operators of the products; or

(4) Others .

Article 21 In the case that an interested party takes part in the investigation, he shall present his identification certificate. If the interested party is an enterprise or any other organization, it shall present its business license and other registration certificates, and the identification certificate of the legal representative thereof.

In the case that an interested party entrusts an agent to participate in the investigation, it shall present identification certificate of the agent and a power of attorney. If an interested party entrusts a lawyer as his agent, the lawyer shall come from a law firm in China and shall practice law in China, and a power of attorney, the business license of the law firm and the law-practice certification of the lawyer shall be presented.

Article 22 The objects of the MOFCOM's countervailing investigation of industry injury include domestic producers, domestic import business operators, domestic purchasers, domestic end consumers, overseas export business operators and overseas producers, etc.

Article 23 The MOFCOM may, whenever necessary, hire experts in the fields of the relevant industry, accounting, economic and trade and law to provide advisory services. The experts involved shall keep the secrets to themselves.

Article 24 The MOFCOM shall take a lot means to conduct an industry injury investigation, including questionnaires, sampling, hearings, technical authentications, on-the-spot investigation and other forms.

Article 25 The questionnaires issued by the MOFCOM to the interested parties include domestic producer questionnaires, domestic importer questionnaires, domestic consumer questionnaires, overseas producer and overseas exporter questionnaires, and other types of questionnaires

Article 26 An interested party shall offer answers to the questionnaires according to the method and time limit as specified in the questionnaires. If it is necessary to extend the time limit, it shall, 7 days prior to the time limit for the submission of answers, submit a written application to the MOFCOM and give an explanation. It is for the MOFCOM to decide whether to extend the time limit or not.

Article 27 The MOFCOM may make on-the-spot investigation to the interested parties. Prior to the on-the-spot investigation, it shall notify the relevant interested parties of the main purposes and content of the investigation beforehand.

Article 28 On the request of the interested parties or in the need of the investigation, the MOFCOM may, upon the approval of the relevant country (region), send persons to the said country (region) to make investigations on the productivity, investments in expanding production, inventories, place of origin or entrepot, the affiliation among the enterprises and other information related to the product.

Article 29 The MOFCOM may request the interested parties to offer or supplement written materials in the light of the relevant requirements, and the interested party may, on his own initiative submit written materials to the MOFCOM as well.

Article 30 On the request of the interested parties or whenever the MOFCOM considers it necessary, a hearing of industry injury may be held.

Article 31 In the case that an interested party who takes part in the industry injury investigation considers it necessary to keep the materials and the relevant evidence secret, it shall, when submitting the materials to the MOFCOM, provide simultaneously a non-confidential summary of the materials, or submit the confidential text and an open text of the materials.

The non-confidential summary and open text shall contain reasonable substantial content of the confidential information. The MOFCOM may, in the absence of substantial content, order the interested party to supplement relevant content and evidential materials.

Article 32 In the case that any interested party who participates in the industry injury investigation fails to provide non-confidential summary or open texts of the materials submitted by it, or fails to provide good reasons, the MOFCOM may reject to take the materials into account. If the MOFCOM does not consider it necessary to keep the materials submitted by an interested party secret, it may request the interested party to withdraw its secrecy application.

Article 33 During the process of industry injury investigation, any interested party subject to the industry injury investigation shall faithfully present the information and offer relevant materials. If any interested party fails to do so, or fails to provide necessary information within a reasonable time limit, or seriously intervene the investigation by any other means, the MOFCOM may judge on the basis of the facts it has already obtained and the best information available.

Chapter IV. Supplementary Provisions

Article 34 When an interested party, who takes part in the industry injury investigation, submits any document or evidential material to the MOFCOM, it shall submit the original Chinese text in quintuplicate accompanied by the corresponding electronic text (computer floppy disks or CDs) in triplicate.

Article 35 Chinese language prescribed by the administrative department of languages of the state as the formal language shall be taken as the prevailing language by the MOFCOM in the industry injury investigation Any document, materials or information offered by any interested party shall be written in standard Chinese. As for any materials in any other language, a Chinese version and the original text shall be submitted, and the Chinese version shall prevail. Any materials in the non-prevailing languages without attaching a Chinese version shall not be regarded as valid and lawful evidential material

Article 36 The authority to interpret the present Provisions shall remain with the Ministry of Commerce.

Article 37 The present Provisions shall go into effect 30 days after the date of promulgation. At the same time when the present Provisions are implemented, the Provisions on the Countervailing Investigation of Industry Injury and Award (Order No. 46 (2002) of the former State Economic and Trade Commission shall be abolished.

Provisions on the Investigation of Industry Injury under Safeguard Measures

Chapter I. General Provisions

Article 1 The present Provisions are formulated in the light of the Regulation on the Safeguard Measures of the People's Republic of China (hereinafter referred to as the Regulation on the Safeguard Measures) in order to regulate the industry injury investigations under safeguard measures.

Article 2 The present Provisions shall apply to the activities related to the industry injury investigations under safeguard measures in the light of the Regulation on the Safeguard Measures.

Article 3 The Ministry of Commerce of the People's Republic of China (MOFCOM) shall take charge of the industry injury investigations under safeguard measures.

As for the industry injury investigations under safeguard measures related to agricultural products, the responsibility shall be jointly conducted by the MOFCOM and the Ministry of Agriculture.

Chapter II. Determination of Injury

Article 4 The term "industry injury" refers to a serious injury or a risk of serious injury induced by the increase of imported products to the domestic industry that produces like products or directly competitive products.

A serious injury refers to overall and serious impairment to the domestic industry.

A serious injury risk refers to a serious injury that is clearly imminent unless measures are taken against it.

Article 5 In the determination of a serious injury or a risk of serious injury caused to the domestic industry by increased imports, the following elements shall be considered:

- (1) The increase of import products, including the absolute and relative increase rate and increase amount of imports;
 - (2) The share of the domestic market taken by the increased imports;
 - (3) The influence of the increased imports on the domestic industry, including the impact on the domestic industry in terms of output, sales, market share, productivity, equipment utilization rate, profits and losses, employment, etc.;
 - (4) Other elements that cause injury to the domestic industry.
- The determination of a risk of serious injury shall be made on the basis of the facts, by the means of examining the productivity, storage, export capacity, the possibility of the continuous increase of exports to China of the export country and other elements, rather than merely on the complaints, the conjectures or the least possibility.

Article 6 In the determination of the impact of the increase of import products on the domestic industry, the MOFCOM shall, on the basis of the ascertained evidence, objectively and comprehensively evaluate various quantifiable indicators that affect the status of the domestic industry rather than simply based on several indicators.

Article 7 The term "like products" refers to the same products as the imported products under investigation; if not the same, the products whose nature is most similar to that of the imported products under investigation.

The term "directly competitive products" refers to the domestic products not identical to the imported products under investigation, but similar to them in use, and are substantially substitutable and thus directly compete with the imported products under investigation.

Article 8 In the determination of like products and directly competitive products, there are some factors that shall be taken into account, including the physical characteristics of the products, chemical performance, manufacturing equipment and techniques, purposes of use, substitutability, appraisal of consumers and producers, distribution channels, and price, etc.

Article 9 In the process of the industry injury investigation, the MOFCOM shall give users or consumers of imported products an opportunity to present their views and evidences.

Article 10 The period subject to industry injury investigation shall generally be 3 - 5 years before the investigation commences.

Chapter III. Industry Injury Investigation

Article 11 When any interested party intends to take part in the investigation of an industry injury under safeguard measures, it shall submit an application to the MOFCOM within 20 days from the day when an announcement on the industry injury investigation for taking safeguard measures is made, and shall carry out relevant registration formalities. At the same time, it may present its views and arguments about the industry injury under investigation and offer corresponding proofs.

Article 12 The interested parties may be:

- (1) Overseas producers, export business operators, and domestic import business operators of the products under investigation, or guilds or other organizations of the producers, export business operators and import business operators of the products under investigation;

(2) The government of the country (region) of origin and the export country (region) of the products under investigation as well as the representatives thereof;

(3) The producers and business operators of domestic like products, or guilds or other organizations of the producers and business operators of the products; or

(4) others.

Article 13 In the case that an interested party takes part in the investigation, he shall present his identification certificate. If the interested party is an enterprise or any other organization, it shall present its business license and other registration certificates, and the identification certificate of the legal representative.

In the case that an interested party entrusts an agent to take part in the investigation, it shall present identification certificate of the agent and a power of attorney. In the case that an interested party entrusts a lawyer as his agent, the lawyer shall come from a law firm in China and shall practice law in China, and a power of attorney, the business license of the law firm and the law-practice certification of the lawyer shall be submitted.

Article 14 The objects of the MOFCOM's industry injury investigation for taking safeguard measures include domestic producers, domestic import business operators, domestic purchasers, domestic end consumers, overseas export business operators and overseas producers, etc.

Article 15 The MOFCOM may, whenever necessary, hire experts in the fields of the relevant industry, accounting, economic and trade and law to provide advisory services it. The experts involved shall keep the secrets to themselves.

Article 16 The MOFCOM shall take a lot of means to conduct an industry injury investigation, including questionnaires, sampling, hearing, technical authentication, on-the-spot investigations and other forms.

Article 17 The questionnaires sent by the MOFCOM to the interested parties takes a lot forms, including domestic producer questionnaires, domestic importer questionnaires, domestic consumer questionnaires, overseas producer and overseas exporter questionnaires, and other types of questionnaires.

Article 18 The answers to the questionnaires shall be submitted by the interested party according to the method and time limit as specified in the questionnaires. If there is a need needs to extend the time limit, it shall, 7 days prior to the time limit for the submission of answers, submit a written application to the MOFCOM and make an explanation. It is for the MOFCOM to decide whether to extend the time limit or not.

Article 19 The MOFCOM may conduct on-the-spot investigations to the interested parties. Prior to the on-the-spot investigation, it shall notify the relevant interested parties of the main purposes and content of the examination beforehand.

Article 20 As requested by the interested parties or in need of the investigation, the MOFCOM may, upon the approval of the relevant country (region), send persons to this country (region) to conduct investigations on the productivity, investments in expanding production, storage, place of origin or entrepot, the affiliation among the enterprises and other information related to the product.

Article 21 The MOFCOM may request the interested parties to submit or supplement written materials in the light of the relevant requirements, and the interested parties may voluntarily submit written materials to the MOFCOM as well.

Article 22 As requested by the interested parties, or whenever the MOFCOM considers necessary, a hearing of industry injury may be held.

Article 23 In the case that an interested party who takes part in the industry injury investigation considers it necessary to keep the materials and the relevant evidence secret, it shall, when submitting the materials to the MOFCOM, offer simultaneously a non-confidential summary of the materials, or submit confidential texts and open texts of the materials.

Article 24 If any interested party who takes part in the industry injury investigation fails to offer non-confidential summary or open texts of the materials submitted by it, or fails to present good reasons, the MOFCOM may refuse to consider the materials. If the MOFCOM does not consider it necessary to keep the materials submitted by an interested party secret, it may request the interested party to withdraw its application for keeping secrets.

Article 25 During the process of industry injury investigation, any interested party subject to the industry injury investigation shall faithfully present the information and offer relevant materials. In the case that any interested party fails to do so, or fails to provide necessary information within a reasonable time limit, or seriously intervene the investigation by any other means, the MOFCOM may make a judgment on the basis of the facts it has already obtained and the best information available.

Chapter IV. Supplementary Provisions

Article 26 When an interested party, who takes part in the industry injury investigation, offers any document or evidential material to the MOFCOM, it shall submit the original Chinese text in quintuplicate accompanied by relevant electronic text (computer floppy disks or CDs) in triplicate.

Article 27 In the industry injury investigation, the standard Chinese prescribed by the administrative department of languages of the state shall be taken by the MOFCOM as the formal language. Any document, materials or information offered by an interested party shall be written in standard Chinese. As for any non-Chinese materials, a Chinese version and the original text shall be submitted, and the Chinese version shall prevail. Any non-Chinese materials without attaching a Chinese translation shall not be considered as valid and lawful evidential material.

Article 28 The authority to interpret the present Provisions shall remain with the MOFCOM.

Article 29 The present Provisions shall go into effect 30 days after promulgation. And at the same time, the Provisions on Safeguards Investigation and Ruling of Industry Injury (Order No. 47 (2002) of the former State Economic and Trade Commission shall be abolished.

(All information published in this website is authentic in [Chinese](#). English is provided for reference only.)