

ENFORCEMENT DECREE OF THE ACT ON THE INVESTIGATION OF UNFAIR INTERNATIONAL TRADE PRACTICES AND REMEDY AGAINST INJURY TO INDUSTRY

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Amended by Presidential Decree No. 18312, Mar. 17, 2004
Presidential Decree No. 18565, Oct. 21, 2004
Presidential Decree No. 19325, Feb. 8, 2006
Presidential Decree No. 20086, Jun. 11, 2007
Presidential Decree No. 20678, Feb. 29, 2008
Presidential Decree No. 21055, Sep. 30, 2008
Presidential Decree No. 21541, Jun. 16, 2009
Presidential Decree No. 21919, Dec. 30, 2009
Presidential Decree No. 22252, Jul. 6, 2010
Presidential Decree No. 23339, Dec. 2, 2011
Presidential Decree No. 24231, Dec. 14, 2012
Presidential Decree No. 25399, Jun. 25, 2014
Presidential Decree No. 25840, Dec. 9, 2014
Presidential Decree No. 25849, Dec. 11, 2014
Presidential Decree No. 26587, Oct. 13, 2015
Presidential Decree No. 27751, Dec. 30, 2016

Article 1 (Purpose)

The purpose of this Decree is to determine matters delegated by the Act on the Investigation of Unfair International Trade Practices and Remedy against Injury to Industry and matters necessary for the enforcement thereof.

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

Article 2 Deleted. <by Presidential Decree No. 22252, Jul. 6, 2010>

Article 3 (Application, etc. for Investigation)

(1) A person who applies for an investigation of unfair international trade practices pursuant to Article 5 (1) of the Act on the Investigation of Unfair International Trade Practices and Remedy against Injury to Industry (hereinafter referred to as the "Act") shall submit an application for investigation, attaching materials supporting the details of the alleged violation, in which the matters of the following subparagraphs are stated, to the Korea Trade Commission under Article 27 of the Act (hereinafter referred to as the "Trade Commission"):
<Amended by Presidential Decree No. 22252, Jul. 6, 2010>

1. Name, address and details of business of the applicant;
2. Name and address of the respondent;
3. Details of the alleged violation of the respondent.

(2) If the Trade Commission decides to commence an investigation of unfair international trade practices pursuant to Article 5 (3) of the Act, it shall immediately notify the parties and interested persons of the following matters in writing: <Amended by Presidential Decree No. 22252, Jul. 6, 2010>

1. Whether to commence the investigation of unfair international trade practices;
2. Period for the investigation of unfair international trade practices and the contents thereof;
3. The fact that the investigation and judgement can be made on the basis of the data under Article 4-4.

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

Article 3-2 (Ex Officio Investigations)

Where the Trade Commission undertakes an ex officio investigation pursuant to Article 6 of the Act into unfair international trade practices provided for in Article 4 (1) 1 of the Act, it shall hear the opinion of the holder of the relevant intellectual property rights in advance. <Amended by Presidential Decree No. 21541, Jun. 16, 2009>

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

Article 4 (Method, etc. of Investigation)

- (1) Where the Trade Commission investigates unfair international trade practices, it shall conduct the investigation by examining submitted documents, but may, if necessary, conduct an on-site inspection.
- (2) Where the Trade Commission intends to undertake an on-site inspection under paragraph (1), it shall, in advance, notify the person subject to inspection of the date and method thereof: Provided, That the same shall not apply, if such

advance notice would make it impossible to achieve the goal of inspection.

(3) Where it is impracticable to continue investigation because any of the following causes occurs during the period of investigation into unfair international trade practices, the Trade Commission may suspend the investigation until the cause is settled:

1. Where the business operation of the respondent is suspended due to bankruptcy, etc.;
2. Where normal investigation is difficult because the respondent is missing, etc.

(4) Where any of the following cases occurs during the investigation period into unfair international trade practices, the Trade Commission may suspend the investigation concerned and judge as a result of a lawsuit or patent trial:
<Amended by Presidential Decree No. 21541, Jun. 16, 2009>

1. Where the procedures for a lawsuit regarding unfair international trade practices for which investigation is underway are in progress;
2. Where the patent trial on any item of Article 4 (1) 1 of the Act is underway.

(5) Where any of the following causes has occurred during the investigation period into unfair international trade practices, the Trade Commission may close the investigation concerned:

1. Where the applicant withdraws the application;
2. Where the cause of suspension is not settled even though a substantial period has elapsed since the investigation was suspended pursuant to paragraph (3).

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

Article 4-2 (Provisional Measures)

(1) Where the Trade Commission intends to decide whether to take the provisional measures to discontinue unfair international trade practices or to prevent any other injury pursuant to Article 7 (2) of the Act (hereinafter referred to as "provisional measures"), it shall consider the following:

1. The possibility that an act subject to the decision as to whether provisional measures are needed is finally judged as an unfair international trade practice;
2. The possibility of causing irrecoverable injury where provisional measures are not taken;
3. The impact of the implementation of provisional measures on the national economy and consumers;

4. In taking provisional measures, an applicant for provisional measures is remarkably superior to a respondent with respect to sales and market share so that there is a possibility (limited to cases where a respondent is a small and medium enterprise under Article 2 of the Framework Act on Small and Medium Enterprises) that no benefit from provisional measures exists and the respondent suffers from irrecoverable injury.
- (2) Where the Trade Commission takes provisional measures pursuant to Article 7 (2) of the Act, it shall notify the applicant and respondent of the provisional measures in writing, clearly specifying the following matters:
 1. The details and reason of judgment of provisional measures;
 2. The period of provisional measures;
 3. The method of raising an objection.

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

Article 4-3 (Provision of Security)

- (1) The amount of security to be provided pursuant to Article 8 (1) of the Act shall be an applicant's transaction amount which is expected to increase during the implementation period of provisional measures, but the applicant shall vindicate such amount: Provided, That if an applicant is a small and medium enterprise under Article 2 of the Framework Act on Small and Medium Enterprises, the applicant may be asked to provide half the transaction amount, expected to increase during the implementation period of provisional measures, as security.
- (2) The Trade Commission shall examine the appropriateness of the amount of security provided pursuant to paragraph (1), and if necessary, may hear the opinion of a respondent thereof.
- (3) Where the accumulated amount of losses sustained by a respondent, following the implementation of provisional measures, is expected to exceed the amount of security under paragraph (1), the Trade Commission may suspend the implementation of the provisional measures: Provided, That this shall not apply where the applicant further provides the respondent with an appropriate amount of security to cover additional losses sustained by the respondent until the provisional measures are completed.

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

Article 4-4 (Investigation and Judgement Based on Available Data)

When investigating unfair international trade practices, the Trade Commission may

conduct an investigation and make a judgement on the basis of available data, such as data on customs clearance, where it is impracticable to conduct an investigation or verify data because the parties or interested persons fail to submit relevant data.

[This Article Newly Inserted by Presidential Decree No. 22252, Jul. 6, 2010]

Article 5 (Notice, etc. of Order of Corrective Measures)

(1) Where the Trade Commission orders corrective measures under Article 10 (1) of the Act, it shall give a written notice specifying the matters of the following subparagraphs:

1. Details of the judgment on unfair international trade practices;
2. Details of and reasons for the corrective measures;
3. Deadline for correction;
4. Method of raising an objection.

(2) When the Trade Commission orders a corrective measure of banning landing among corrective measures under Article 10 (1) 2 of the Act, it shall post the following matters in the Official Gazette: *<Newly Inserted by Presidential Decree No. 22252, Jul. 6, 2010>*

1. Details of the unfair international trade practices;
2. Details of and reasons for the corrective measure of banning landing;
3. Name or trade name of a person who supplies the relevant goods, etc. to Korea from a foreign country (hereafter referred to as "foreign supplier" in this Article);
4. The fact that any other corrective measure of banning landing may be issued where the same goods, etc. are imported by the same foreign supplier.

(3) The Trade Commission shall offer the relevant actor a chance to present his/her opinions before it orders a corrective measure referred to in Article 10 (1) of the Act. *<Newly Inserted by Presidential Decree No. 25399, Jun. 25, 2014>*

(4) Notwithstanding paragraph (3), the Trade Commission may choose not to offer the relevant actor a chance to present his/her opinions, if he/she falls under any of the subparagraphs of Article 21 (4) of the Administrative Procedures Act or has expressly stated his/her intention to give up such chance. *<Newly Inserted by Presidential Decree No. 25399, Jun. 25, 2014>*

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

Article 5-2 (Request for Cooperation, etc. to Heads of Relevant Administrative Agencies)

(1) The Trade Commission may, when ordering an corrective measure of banning

landing under Article 10 (1) 2 of the Act, request cooperation to the heads of the relevant administrative agencies pursuant to Article 10 (2) of the Act.

- (2) Upon receipt of the request pursuant to paragraph (1), the heads of the relevant administrative agencies may request the Trade Commission to conform whether the relevant goods, etc. are subject to banning landing.

[This Article Newly Inserted by Presidential Decree No. 22252, Jul 6, 2010]

Article 6 (Method of Calculation of Penalty Surcharges)

- (1) "Transaction amount prescribed by Presidential Decree" in the main sentence of Article 11 (1) of the Act means the annual average transaction amount of the immediately preceding three business years for goods, etc. related to the corresponding unfair international trade practices under the classification of the following subparagraphs: Provided, That where three years have not passed since the commencement of business until the first day of the relevant business year, the transaction amount means the annual average transaction amount from the commencement of the business to the end of the immediately preceding business year, and where business was commenced in the relevant business year, the transaction amount means the annual average transaction amount from the business commencement date to the date of violation:

1. As to the goods, etc. which are sold or exported after importing or manufacturing, the selling amount;
2. As to the goods, etc. which are not sold or not exported after importing or manufacturing, the purchase amount or the production cost of the manufactured goods, etc.

- (2) "Where there is no transaction amount or where it is difficult to compute the transaction amount" in the proviso to Article 11 (1) of the Act means cases falling under any of the following subparagraphs:

1. Transaction records are non-existent or, if exist, they cannot be deemed ordinary since transactions have been intermittent due to suspended business activities, etc.;
2. Where the relevant actor refuses to submit transaction data or submits false data;
3. Where it is difficult to objectively calculate the transaction amount due to the absence of data on transactions, etc.

- (3) Penalty surcharges imposed pursuant to Article 11 (3) of the Act shall be calculated based on the reported amount of export or import for the last five

years from the date the commencement of investigation on the goods, etc. related to unfair international trade practices is determined, not exceeding 300 million won: Provided, That where five years have not yet passed since the launch of the business as of the day the commencement of the investigation is determined, the penalty surcharges shall be calculated based on the reported amount of export or import from the business date to the date of decision on investigation. <Newly Inserted by Presidential Decree No. 22252, Jul 6, 2010>

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

Article 7 (Standards for Imposing Penalty Surcharges)

- (1) The standards for imposing penalty surcharges under Article 11 (1) of the Act shall be as provided for in attached Table 1.
- (2) The standards for imposing penalty surcharges under Article 11 (3) of the Act shall be as provided for in attached Table 2. <Newly Inserted by Presidential Decree No. 21541, Jun. 16, 2009>
- (3) Taking into consideration of the following subparagraphs, the Trade Commission may increase or decrease a penalty surcharge up to 1/2 of the penalty surcharge determined pursuant to paragraphs (1) and (2): Provided, That in cases of increasing the penalty surcharge, the total amount may not exceed the amount of penalty surcharge under Article 11 (1) and (3) of the Act: <Amended by Presidential Decree No. 21541, Jun. 16, 2009>
 1. Details and degree of the violation;
 2. Period and frequency of the violation;
 3. Whether the violation was intentional or negligent;
 4. Amount of profit gained by the violation.

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

Article 8 (Imposition and Payment of Penalty Surcharges)

- (1) Where the Trade Commission plans to impose a penalty surcharge under Article 11 (1) and (3) of the Act, the Trade Commission shall provide a written notice in which the type of violation, the amount of penalty surcharge, etc. are specified. <Amended by Presidential Decree No. 21541, Jun. 16, 2009>
- (2) A person who receives a notice pursuant to paragraph (1) shall pay to a recipient agency designated by the Trade Commission a penalty surcharge within 20 days after the receipt of the notice: Provided, That if the person is unable to pay the penalty surcharge within the period due to natural disasters and other unavoidable circumstances, the payment of penalty surcharge shall be made

within seven days after such circumstances have been resolved.

- (3) A recipient agency that receives a penalty surcharge pursuant to paragraph (2) shall provide a receipt to a person making such payment.
- (4) Where a recipient agency receives a penalty surcharge pursuant to paragraph (2), the recipient agency shall promptly notify the Trade Commission of such payment.

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

Article 9 (Extension of Payment Deadline for Penalty Surcharge and Payment by Installments, etc.)

- (1) "Where the amount of the penalty surcharge corresponds to the criteria determined by Presidential Decree" in the former part, other than subparagraphs of Article 12 (1) of the Act, means cases where a penalty surcharge amount is no less than 300 million won.
- (2) Extension of the payment deadline for a penalty surcharge under Article 12 (1) of the Act shall not exceed one year from the next day of the payment deadline for a penalty surcharge.
- (3) Where payment by installments is allowed under Article 12 (1) of the Act, the interval between installment payments shall not exceed four months, and no more than three installment payments shall be permitted.
- (4) Where a person liable for a penalty surcharge, whose payment deadline has been extended or payment by installments has been permitted pursuant to Article 12 (1) of the Act, falls under any of the following subparagraphs, the Trade Commission may cancel its decision to extend the payment deadline or to permit payment by installments and collect such penalty surcharge in a lump sum:
 1. Where the installment payment of the penalty surcharge is overdue;
 2. Where an order by the Trade Commission with regard to provision of security is not fulfilled;
 3. Where collection of all or remaining penalty surcharge amount is not feasible because of compulsory execution, commencement of auction, adjudication of bankruptcy, dissolution of the corporation concerned, disposition of national or local taxes in arrears, etc.

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

Article 10 (Additional Charges on Penalty Surcharges in Arrears and Urge for Payment)

- (1) The amount of additional charges on a penalty surcharge in arrears under Article 13 (1) of the Act shall be the amount equivalent to 5/100 of the amount of penalty surcharge in arrears.
- (2) Urge for payment under Article 13 (2) of the Act shall be provided in writing within seven days after the expiration of the payment deadline.
- (3) Where a written demand is made pursuant to paragraph (2), the payment deadline for a penalty surcharge in arrears and additional charges thereon shall be within ten days from the date in which the written demand is made.
- (4) The refunded additional charge referred to in Article 13 (3) of the Act shall be the amount calculated from the interest rate under Article 43-3 (2) of the Enforcement Decree of the Framework Act on National Taxes with respect to the penalty surcharge to refund. *<Amended by Presidential Decree No. 25399, Jun. 25, 2014>*

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

Article 10-2 (Imposition, Collection, etc. of Charges for Compelling Compliance)

- (1) Corrective measures eligible to impose charges for compelling compliance pursuant to Article 13-2 (1) of the Act shall be limited to the abandoning in Article 10 (1) 2 of the Act and corrective measures under subparagraphs 3 and 4 of the same paragraph.
- (2) The value of the relevant goods, etc. under the main sentence of and proviso to Article 13-2 (1) of the Act shall be the amount under the following classifications:
 1. For unfair international trade practices under Article 4 (1) 1, 3 or 4 of the Act: The amount under the classifications in each subparagraph of Article 6 (1);
 2. For unfair international trade practices under Article 4 (1) 2 of the Act: The reported amount of export or import under Article 6 (3).
- (3) The Trade Commission shall set a reasonable compliance period before the imposition of charges for compelling compliance and give a prior warning, in writing, that the charges for compelling compliance shall be imposed and collected if the relevant measure is not complied with within such period.
- (4) The Trade Commission shall impose charges for compelling for the period from the date following the expiration date of the compliance period prescribed in the corrective order to the date the corrective order is complied with.
- (5) Criteria for imposition of charges for compelling compliance shall be as

prescribed in attached Table 3.

- (6) The Trade Commission shall, when determining the charges for compelling compliance, take into account reasons for failure to comply with a corrective order, the scale of profits that can be achieved from the failure to comply with such corrective order, etc.
- (7) Where a corrective order is not complied with even after 90 days have passed since the expiration date of the compliance period prescribed in the corrective order, the Trade Commission may collect the charges for compelling compliance based on the date 90 days have passed, retrospectively from the expiration date.
- (8) Article 8 (2) through (4) shall apply mutatis mutandis with respect to the payment of charges for compelling compliance. In such cases, "penalty surcharges" shall be deemed "charges for compelling compliance."

[This Article Newly Inserted by Presidential Decree No. 22252, Jul. 6, 2010]

Article 11 (Procedures for Raising Objections)

Any person who raises an objection under Article 14 (1) of the Act shall submit to the Trade Commission an application stating the relevant parties, details of complaints, grounds for complaints, etc., accompanied by supporting documents or materials.

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

Article 11-2 (Application, etc. for Verification of Goods, etc. Violating Intellectual Property Rights)

- (1) A person who intends to request the Trade Commission to verify, pursuant to Article 14-2 (1) of the Act, the goods, etc. violating intellectual property rights under Article 4 (1) 1 of the Act (hereinafter referred to as "goods, etc. violating intellectual property rights") shall submit to the Trade Commission a verification application stating the following subparagraphs, accompanied by documents certifying the fact that a respondent intends to conduct or has already conducted unfair international trade practices under Article 4 (1) 1 of the Act, with respect to the goods of the same kind with the goods, etc. violating intellectual property rights, which the Trade Commission has judged as unfair international trade practices against the goods, etc. violating intellectual property rights (hereinafter referred to as "goods, etc. judged as violating intellectual property rights"): *<Amended by Presidential Decree No. 21541, Jun. 16, 2009>*

1. Name, address and details of business of the applicant;

2. Name and address of the respondent;
 3. Purpose of request for verification.
- (2) In any of the following cases, the relevant goods, etc. shall be deemed the same as the goods, etc. judged as violating intellectual property rights:
1. Where the manufacturer and product identification code are equal;
 2. Where the manufacturer and major characteristics, including nature, status, functions and uses, are equal;
 3. Other goods, etc. whose name of the manufacturer or appearance has altered in order to look different from the goods, etc. judged as violating intellectual property rights, and which are recognized by the Trade Commission as the goods, etc. same as the goods, etc. judged as violating intellectual property rights.

[This Article Newly Inserted by Presidential Decree No. 21055, Sep. 30, 2008]

Article 11-3 (Provision Rate of Rewards and Subject Matter Excluded from Provision)

- (1) "The amount prescribed by Presidential Decree" in Article 14-3 (1) of the Act other than each subparagraph shall be the amount which applies the following provision rate to the amount of the penalty surcharges imposed under Article 11 of the Act:
- (2) "Any person prescribed by Presidential Decree, including those who file an application based on information acquired in service, or public officials who provided materials" in Article 14-3 (2) of the Act means any of the following persons:
1. A public official who files an application based on information acquired in service or offers materials, or executive officers and employees of public institutions under Article 4 of the Act on the Management of Public Institutions;
 2. A person who is a holder or executor of intellectual property rights subject to the investigation of unfair international trade practices, and who financially benefits from the imposition of a penalty surcharge;
 3. A person who is confirmed to have been paid a financial reward or to undergo the payment procedures thereof by reporting to another institution the details same as those he/she applied or provided to the Trade Commission;
 4. A person who uses fraudulent means, such as inducing unfair international trade practices or colluding with another person for the purpose of receiving

a financial reward;

5. A person who has received a financial reward at least three times or at least 50 million won in total from the Trade Commission for the one year immediately preceding the Trade Commission's decision to provide the financial reward.

[This Article Newly Inserted by Presidential Decree No. 21055, Sep. 30, 2008]

Article 12 (Increased Import)

"Increased import" in Article 15 of the Act means an absolute increase in import quantities, or a relative increase in import quantities compared to domestic production over a particular period.

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

Article 13 (Scope of Domestic Industry)

- (1) "Domestic industry" in Article 15 of the Act means domestic producers as a whole that produce the kind of goods same as the particular goods or the goods in direct competition with the particular goods, or the group of domestic producers whose collective output of such goods constitutes a major proportion of the total domestic production of such goods.
- (2) The domestic industry shall be limited to domestic production, when domestic producers under paragraph (1) concurrently engage in import, and to the production of goods same as the particular import goods or the goods in direct competition with the particular import goods, when the domestic producers produce goods, other than those same as the particular import goods or the goods in direct competition with the particular import goods.

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

Article 14 (Interested Parties in Domestic Industry)

- (1) "Any interested person in such domestic industry" in Article 15 of the Act means the following:
 1. A producer or a group of producers producing not less than 20/100 of the total domestic production of the goods concerned;
 2. A group of producers comprising not less than 20/100 of the total number of domestic producers of the goods concerned: Provided, That in the case of agriculture, forestry and fisheries, it means a group of producers of the goods concerned which is comprised of five or more members;
 3. Labor union of each industry, or societies or associations whose foundation is permitted by the head of the central administrative agency taking charge of

the industry concerned and which are comprised of domestic producers of the goods concerned.

- (2) Where any person who falls under any subparagraph of paragraph (1) imports the goods concerned to the extent that the volume of the import affects competition in the domestic market, such person may be excluded from the scope of the interested persons in the domestic industry.

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

Article 15 (Application for Investigation of Injury to Industry)

- (1) A person who makes an application for investigation (hereinafter referred to as "applicant of the investigation of injury to the industry"), as to whether increased imports of particular goods cause injury to the domestic industry (hereinafter referred to as "investigation of injury to the industry") in accordance with Article 15 of the Act, shall submit to the Trade Commission an application indicating the following subparagraphs, accompanied by the materials verifying the details of the request:

1. Names, standards, features, uses, and producers of the goods concerned;
2. Exporting countries, exporters, importers, actual results of imports (referring to quantity and value), and expected quantity of import of the goods concerned;
3. Names, standards, features, uses, and producers of the goods of the same kind as the domestic goods or of the goods in direct competition with the domestic goods;
4. Circumstances in which imports of the goods concerned have caused or are threatening to cause serious injury to the domestic industry;
5. Current status and prospects of the domestic industry concerned in terms of its international competitiveness;
6. Details of support for the domestic industry concerned pursuant to the related Acts and statutes;
7. Details, scope and duration of measures, which are necessary for remedying the injury to the domestic industry concerned, where there is serious injury or a threat of serious injury to the domestic industry concerned;
8. Causes in cases where the application details and attached materials need to be treated as confidential information.

- (2) Where the application details or materials under paragraph (1) are inadequate, the Trade Commission may request the applicant of the investigation of injury

to the industry to complement them within a prescribed period: Provided, That the complementary period shall not be included in the period for deciding whether to commence the investigation under Article 16 (1) of the Act.

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

Article 16 (Decision, etc. as to Commencement of Investigation of Injury to Industry)

(1) The Trade Commission shall decide not to commence an investigation of injury to the industry under Article 16 (1) of the Act, where the application for investigation of injury to the industry falls under any of the following subparagraphs:

1. Where the applicant is not a person with an interest in the domestic industry concerned under Article 14 or is not the head of the central administrative agency taking charge of the domestic industry concerned;
2. Where it is evident, as a result of the evaluation of applications and attached materials, that imports of the goods concerned have not caused or are not threatening to cause serious injury to the domestic industry;
3. Where it becomes unnecessary to commence the investigation because measures to prevent or remedy serious injury to the domestic industry have already been taken prior to the commencement of investigation;
4. Where an application for investigation of injury is filed for the same investigation of injury within one year from the date of decision not to commence the investigation or of non-existence decision of injury: Provided, That this shall not apply where it is clearly recognized that any change in any subparagraph of Article 17 (1) is made.

(2) Where a decision is made whether to commence an investigation of injury to the industry under Article 16 (1) of the Act, the Trade Commission shall publish such fact in the Official Gazette.

(3) Where an applicant withdraws his/her application for an investigation following the decision on the commencement of the investigation, the Trade Commission shall terminate the investigation and publish such fact in the Official Gazette.

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

Article 17 (Judgment, etc. on Presence of Injury to Industry)

(1) In judging whether any injury occurs to the domestic industry under Article 16

(2) of the Act, the Trade Commission shall consider all the following matters:

1. Whether there has been an increase in imports;
2. Whether serious injury to the domestic industry exists;

3. Whether there are concerns over serious injury to the domestic industry;
 4. Whether imports of the goods concerned cause or threaten to cause serious injury to the domestic industry.
- (2) In considering matters as provided for in paragraph (1) 2, evaluation shall be made as to whether the domestic industry has suffered significant and overall injury, in light of changes in sales, production, productivity, capacity utilization, profit and loss, employment, inventory, market share, etc.
- (3) In considering matters provided for in paragraph (1) 3, an evaluation shall be made as to whether injury under paragraph (2) is clearly imminent.
- (4) Where the Trade Commission judges whether any injury exists to the domestic industry under paragraph (1), the Commission shall publish the details in the Official Gazette and notify applicants and interested persons thereof.

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

Article 18 Deleted. <by Presidential Decree No. 18565, Oct. 21, 2004>

Article 19 (Recommendations for Provisional Safeguard Measures)

- (1) In cases under Article 18 (1) of the Act, a person applying for an investigation of injury to the industry may request the Trade Commission to recommend safeguard measures under Article 17 (1) 1 of the Act (hereinafter referred to as "provisional safeguard measures").
- (2) An applicant for provisional safeguard measures under paragraph (1) shall submit to the Trade Commission an application stating the following information, accompanied by the materials verifying such request:
 1. The extent of injury to the domestic industry caused by increased imports of the goods concerned;
 2. The details, extent, and duration of provisional safeguard measures;
 3. Other reasons justifying the necessity of provisional safeguard measures.
- (3) Upon receipt of an application for recommendation of provisional safeguard measures under paragraph (1), the Trade Commission shall determine whether to recommend the provisional safeguard measures within one month from the date of application after hearing the opinion of the head of the relevant central administrative agency taking charge of the industry in question and of the enterprise association, etc. related to the industry in question: Provided, That the Trade Commission may extend the period by no more than one month if the matter under investigation is complicated.
- (4) Where the Trade Commission judges that provisional safeguard measures are

necessary under Article 18 (1) of the Act, the Trade Commission shall publish such details in the Official Gazette and notify applicants and interested persons thereof.

- (5) If industries for which provisional safeguard measures are recommended is classified as agriculture, forestry and fisheries, and if it is necessary to take urgent action due to the seasonality, perishable nature, etc. of goods, the decision on whether to enforce the provisional safeguard measures shall be made within 15 days from the date of recommendation. In such cases, where consultation with other central administrative agencies, institutions, or organizations concerned is necessary for the application of the provisional safeguard measures, the period required for such consultation shall not be included in the prescribed period.

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

Article 20 (Implementation, etc. of Safeguard Measures)

- (1) Where the head of a central administrative agency places a restriction, pursuant to Article 19 (1) of the Act, on the quantity of goods imported as safeguard measures under Article 17 of the Act (hereinafter referred to as "safeguard measures"), the restricted quantity shall not be less than the annual average amount of goods imported (hereinafter referred to as "standard quantity") calculated on the basis of goods imported over the last three representative years. In such cases, the years when the imported amount rapidly increased or decreased in comparison with the normal imported amount may be excluded in selecting the last representative years.
- (2) When it is clearly recognized that the restriction on the quantity of goods under paragraph (1) cannot prevent or remedy serious injury to the domestic industry, the head of the central administrative agency may restrict the quantity below the standard quantity.

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

Article 21 (Interim Review of Safeguard Measures)

- (1) The Trade Commission shall commence the interim review of safeguard measures under Article 20 (1) of the Act not later than six months prior to the first half of the period of safeguard measures.
- (2) Where the Trade Commission intends to recommend the liberalization or withdrawal of safeguard measures to the head of the central administrative agency concerned under Article 20 (2) of the Act, such recommendation shall

be made by not later than one month prior to the first half of the period of safeguard measures.

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

Article 21-2 (Application for Extension, etc. of Safeguard Measures)

(1) A person who intends to make an application for extension, etc. of safeguard measures pursuant to Article 20-2 (1) of the Act shall submit to the Trade Commission an application indicating the matters provided for in subparagraphs of Article 15 (1) (limited to any matters whose details have changed) and the matters of the following subparagraphs, accompanied by the materials verifying the details, by not later than six months before the expiration date of the relevant safeguard measures:

1. Evidence that the domestic industry concerned is under restructuring;
2. The results of restructuring of the domestic industry concerned;
3. Other reasons justifying the necessity of extending the safeguard measures.

(2) Where the Trade Commission judges that it is necessary to alter or extend the relevant safeguard measures pursuant to Article 20-2 (2) of the Act, it shall publish the details in the Official Gazette and notify the applicant for investigation and interested persons thereof.

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

Article 22 Deleted. <by Presidential Decree No. 21055, Sep. 30, 2008>

Article 22-2

[Previous Article 22-2 moved to Article 23]

Article 22-3

[Previous Article 22-3 moved to Article 24]

Article 22-4

[Previous Article 22-4 moved to Article 25]

Article 23 Deleted. <by Presidential Decree No. 26587, Oct. 13, 2015>

Article 24 (Safeguard Measures under Free Trade Agreements with Foreign Countries)

(1) Countries subject to free trade agreement safeguard measures under Article 22-3 (1) of the Act (hereinafter referred to as "FTA safeguard measures") and provisional free trade agreement safeguard measures under paragraph (4) of the same Article (hereinafter referred to as "provisional FTA safeguard measures") shall be as follows: <Amended by Presidential Decree No. 21919, Dec. 30, 2009; Presidential Decree No. 22986, Jun. 27, 2011; Presidential Decree No. 23052, Jul. 28, 2011; Presidential Decree No. 24231, Dec. 14, 2012; Presidential Decree No. 25399, Jun. 25, 2014; Presidential Decree No. 25849, Dec. 11, 2014>

1. The Republic of Chile;
 2. The Republic of Singapore;
 3. The European Free Trade Association states;
 4. The Association of Southeast Asian Nations member states;
 5. The United States of America;
 6. The Republic of India;
 7. The European Union and member states thereof;
 8. The Republic of Peru;
 9. The Republic of Turkey;
 10. The Republic of Colombia; <<*Enforcement Date: Effective Date of the Free Trade Agreement between the Republic of Korea and the Republic of Colombia*>>
 11. Australia;
 12. Canada.
- (2) An application for the investigation to implement FTA safeguard measures may be made for specific goods (limited to goods applied by the relevant FTA) having the countries under subparagraphs of paragraph (1) as the origins: Provided, That an application for the investigation against the Republic of Chile under paragraph (1) 1 may be made only for agricultural products.
- (3) With respect to investigation into and judgment on FTA safeguard measures, Articles 12 through 14 shall apply mutatis mutandis.
- (4) A person who intends to file an application for investigation pursuant to Article 22-3 (1) of the Act shall submit to the Trade Commission an application stating the matters under subparagraphs of Article 15 (1) (in the case of the Republic of Chile, matters that imports of the product concerned cause or are likely to cause disruption to the domestic market, and details, extent, and duration of the measures necessary to remedy any disturbance of the domestic market shall be added), accompanied by the materials verifying the details. In such cases, with respect to the supplement of the materials, Article 15 (2) shall apply mutatis mutandis.
- (5) Upon receipt of an application for investigation, the Trade Commission shall decide whether to commence such investigation not later than 30 days after the application is made: Provided, That if the application for investigation falls under any of the following subparagraphs, it shall decide not to commence the investigation: <*Amended by Presidential Decree No. 23339, Dec. 2, 2011; Presidential Decree No. 24231, Dec. 14, 2012; Presidential Decree No. 25849, Dec. 11, 2014*>

1. Where the applicant for investigation is not a person with an interest in the domestic industry concerned under Article 14 or the head of the central administrative agency concerned in charge of the domestic industry concerned;
2. Where it is evident, as a result of the evaluation of an application and attached materials, that the import of the goods concerned does not fall under injury, etc. to an industry under Article 22-3 (1) (hereafter referred to as "injury, etc. to an industry" in this Article);
3. Where it becomes unnecessary to commence the investigation because measures to prevent or remedy injury, etc. to an industry have already been taken prior to the commencement of the investigation;
4. Where the application for investigation is filed for the same investigation within one year from the date of decision not to commence the investigation or of decision provided for in paragraph (6): Provided, That where it falls under any of the followings, the same shall not apply:
 - (a) Where it is clearly recognized that any change in the matters referred to in any subparagraph of paragraph (7) is made;
 - (b) Where it is recognized that any change in circumstances makes it difficult to secure the implementation of an agreement with the relevant country referred to in paragraph (9) 2, upon request of the head of the relevant central administrative agency;
5. Where it falls under the goods (excluding automobiles falling under No. 8703 or 8704 mentioned in the schedule of concessions of the Republic of Korea in accordance with the Free Trade Agreement between the Republic of Korea and the United States of America) subject to FTA safeguard measures imposed on the United States of America, the Republic of Turkey, and Australia.
- (6) Where the Trade Commission has decided to commence the investigation, it shall make a decision as to whether the injury, etc. to the relevant industry exists within four months from the date of such decision: Provided, That where any matters subject to the investigation are complicated or where the applicant for investigation requests the period above to be extended with justifiable reasons, the investigation period may be extended by a period not exceeding two months.
- (7) In judging whether any injury, etc. exists to an industry, the Trade Commission

shall consider the following matters:

1. Whether the import of the goods concerned has increased;
 2. If there is injury, etc. to an industry, the extent of the injury (in the case of an investigation against the Republic of Chile, matters as to whether the domestic market is disrupted or is likely to be disrupted, and the extent of the disturbance shall be included);
 3. Whether the increase in the import of the goods concerned is a substantial cause behind injury, etc. to an industry.
- (8) In conducting an investigation for FTA safeguard measures under Article 4.1 of the Free Trade Agreement between the Republic of Korea and the United States of America against textile and clothing imported from the United States of America, the Trade Commission shall consider the following matters, when it judges the presence of injury, etc. to the industry: Provided, That changes in technology and customer preference shall not be considered:
1. Whether it falls under any subparagraph of paragraph (7);
 2. The extent of impact which the increase in the import of the goods concerned has on the changes in production, productivity, facility capacity utilization, inventory, market share, export, wages, employment, domestic prices, profits, and investment, etc. of the relevant industry.
- (9) The Trade Commission shall cease the investigation under any of the circumstances described in the following subparagraphs even after its decision to commence such investigation:
1. Where the applicant for investigation withdraws the application;
 2. Where the head of the relevant central administrative agency recommends the suspension of investigation on the ground of agreement with the relevant country to prevent or remedy injury, etc. to an industry.
- (10) Where the Trade Commission recommends the implementation of FTA safeguard measures under Article 22-3 (2) of the Act, it shall do so within one month from the date when the injury, etc. to an industry has been judged under paragraph (6), and the recommended period of the implementation shall not exceed the period fixed by an agreement with the relevant country under each subparagraph of paragraph (1).
- (11) Where the Trade Commission has received an application for provisional FTA safeguard measures from an applicant for investigation under Article 22-3 (4) of the Act, Article 19 (2), (3) and (5) shall apply *mutatis mutandis*. In such cases,

"provisional safeguard measures" shall be deemed "provisional FTA safeguard measures."

- (12) Where the Trade Commission has received an application for provisional FTA safeguard measures (excluding an application for provisional FTA safeguard measures against automobiles falling under No. 8703 or 8704 mentioned in the schedule of concessions of the Republic of Korea in accordance with the Free Trade Agreement between the Republic of Korea and the United States of America) against the United States of America and Canada, as provided for in Article 10.3 of the Free Trade Agreement between the Republic of Korea and the United States of America and Article 7.3 of the Free Trade Agreement between the Republic of Korea and Canada, respectively, it shall publish the means to acquire the details of such application and the facts that any person may raise an objection against such application for at least 20 days in the Official Gazette. *<Amended by Presidential Decree No. 23339, Dec. 2, 2011; Presidential Decree No. 25399, Jun. 25, 2014; Presidential Decree No. 25849, Dec. 11, 2014>*
- (13) A person who intends to file an application for the extension of FTA safeguard measures as provided for in Article 22-3 (5) of the Act shall submit to the Trade Commission the application indicating the matters provided for in subparagraphs of Article 15 (1) (limited to any matters whose details have changed) and subparagraphs of Article 21-2 (1), accompanied by the materials verifying the details, not later than six months before the expiration date of the relevant FTA safeguard measures. In such cases, where the Trade Commission recommends to extend the FTA safeguard measures as provided for in Article 22-3 (5) of the Act, it shall recommend the head of the central administrative agency concerned to extend the FTA safeguard measures not later than one month prior to the expiration date of the FTA safeguard measures.
- (14) The Trade Commission shall publish the details of the following subparagraphs and notify separately the applicant for investigation, interested persons, and the head of the relevant central administrative agency of such details:
1. Commencement decision and closing of investigation;
 2. Judgment on whether any injury, etc. exists to an industry;
 3. Recommendation for the implementation of FTA safeguard measures and provisional FTA safeguard measures, and the extension of FTA safeguard measures.

- (15) Where the head of the relevant central administrative agency has been recommended from the Trade Commission for FTA safeguard measures, provisional FTA safeguard measures, the extension of FTA safeguard measures, or the implementation of measures to promote restructuring (hereafter referred to as "FTA safeguard measures, etc." in this Article), he/she shall determine whether to implement such measures and the details and the duration of such measures within 30 days (in the case of the extension of FTA safeguard measures, before such measures come to a close), upon hearing the opinions of the head of another central administrative agency concerned under Article 19 (2) of the Act, and then shall notify the Trade Commission thereof. In such cases, if preparation is necessary, such as the consultation with a relevant country and amendments of Acts and statutes to implement the FTA safeguard measures, etc., the period required for such preparation shall not be included in the said period.
- (16) When the period for FTA safeguard measures against any of the following nations is at least a year, the head of the relevant central administrative agency shall periodically relax such measures in a gradual manner: *<Amended by Presidential Decree No. 23339, Dec. 2, 2011; Presidential Decree No. 24231, Dec. 14, 2012; Presidential Decree No. 25399, Jun. 25, 2014; Presidential Decree No. 25849, Dec. 11, 2014>*
1. The Republic of Singapore;
 2. Member states of the Association of Southeast Asian Nations;
 3. The United States of America (limited to cases where items subject to FTA safeguard measures are items, other than automobiles falling under No. 8703 or 8704 mentioned in the schedule of concessions of the Republic of Korea in accordance with the Free Trade Agreement between the Republic of Korea and the United States of America);
 4. The Republic of Turkey;
 5. The Republic of Colombia; *<<Enforcement Date: Effective Date of the Free Trade Agreement between the Republic of Korea and the Republic of Colombia>>*
 6. Australia.

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

Article 24 (Safeguard Measures under Free Trade Agreements with Foreign Countries)

- (1) Countries subject to free trade agreement safeguard measures under Article 22-3 (1) of the Act (hereinafter referred to as "FTA safeguard measures") and

provisional free trade agreement safeguard measures under paragraph (4) of the same Article (hereinafter referred to as "provisional FTA safeguard measures") shall be as follows: <Amended by Presidential Decree No. 21919, Dec. 30, 2009; Presidential Decree No. 22986, Jun. 27, 2011; Presidential Decree No. 23052, Jul. 28, 2011; Presidential Decree No. 24231, Dec. 14, 2012; Presidential Decree No. 25399, Jun. 25, 2014; Presidential Decree No. 25849, Dec. 11, 2014; Presidential Decree No. 26587, Oct. 13, 2015>

1. The Republic of Chile;
 2. The Republic of Singapore;
 3. The European Free Trade Association states;
 4. The Association of Southeast Asian Nations member states;
 5. The United States of America;
 6. The Republic of India;
 7. The European Union and member states thereof;
 8. The Republic of Peru;
 9. The Republic of Turkey;
 10. The Republic of Colombia;
 11. Australia;
 12. Canada;
 13. New Zealand;
 14. The Socialist Republic of Vietnam;
 15. The People's Republic of China.
- (2) An application for the investigation to implement FTA safeguard measures may be made for specific goods (limited to goods applied by the relevant FTA) having the countries under subparagraphs of paragraph (1) as the origins: Provided, That an application for the investigation against the Republic of Chile under paragraph (1) 1 may be made only for agricultural products.
- (3) With respect to investigation into and judgment on FTA safeguard measures, Articles 12 through 14 shall apply mutatis mutandis.
- (4) A person who intends to file an application for investigation pursuant to Article 22-3 (1) of the Act shall submit to the Trade Commission an application stating matters under subparagraphs of Article 15 (1) (in cases of the Republic of Chile, matters that the domestic market is disturbed or has concerns over being disturbed due to the import of the relevant products, and details, extent, and duration of measures necessary to remedy any disturbance of the domestic

market shall be added), accompanied by the materials verifying the details. In such cases, with respect to the supplement of the material, Article 15 (2) shall apply mutatis mutandis.

(5) Upon receipt of an application for investigation, the Trade Commission shall decide whether to commence such investigation not later than 30 days after the application is made: Provided, That if the application for investigation falls under any of the following subparagraphs, it shall decide not to commence the investigation: <Amended by Presidential Decree No. 23339, Dec. 2, 2011; Presidential Decree No. 24231, Dec. 14, 2012; Presidential Decree No. 25399, Jun. 25, 2014; Presidential Decree No. 25849, Dec. 11, 2014; Presidential Decree No. 26587, Oct. 13, 2015>

1. Where the applicant for investigation is not a person with an interest in the domestic industry concerned under Article 14 or the head of the central administrative agency concerned in charge of the domestic industry concerned;
2. Where it is evident, as a result of the evaluation of an application and attached material, that the import of the goods concerned does not fall under injury, etc. to an industry under Article 22-3 (1) (hereafter referred to as "injury, etc. to an industry" in this Article);
3. Where it becomes unnecessary to commence the investigation because measures to prevent or remedy injury, etc. to an industry have already been taken prior to the commencement of the investigation;
4. Where the application for investigation is filed for the same investigation within one year from the date of decision not to commence the investigation or of decision provided for in paragraph (6): Provided, That where it falls under any of the followings, the same shall not apply:
 - (a) Where it is clearly recognized that any change in the matters referred to in any subparagraph of paragraph (7) is made;
 - (b) Where it is recognized that any change in circumstances makes it difficult to secure the implementation of agreement with a relevant country as referred to in paragraph (9) 2, upon request of the head of the relevant central administrative agency;
5. Where it falls under goods (excluding automobiles falling under No. 8703 or 8704 mentioned in the schedule of concessions of the Republic of Korea in accordance with the Free Trade Agreement between the Republic of Korea

and the United States of America) subject to FTA safeguard measures imposed on the United States of America, the Republic of Turkey, the Republic of Colombia, Australia, New Zealand, and the Socialist Republic of Vietnam.

- (6) Where the Trade Commission has decided to commence the investigation, it shall make a decision as to whether the injury, etc. to the relevant industry exists within four months from the date when such decision has been made: Provided, That where matters required to be investigated are complicated or where the applicant for investigation requests the period above to be extended with justifiable reasons, the investigation period may be extended by a period not exceeding two months.
- (7) In judging whether any injury, etc. exists to an industry, the Trade Commission shall consider the following matters:
 1. Whether the import of the goods concerned has increased;
 2. If there is injury, etc. to an industry, the extent of the injury (in cases of an investigation against the Republic of Chile, whether the domestic market is disturbed or has concerns over being disturbed, and the extent of the disturbance shall be included);
 3. Whether the increase in the import of the goods concerned is a substantial cause behind injury, etc. to an industry.
- (8) In conducting an investigation for FTA safeguard measures as provided for in Article 4.1 of the Free Trade Agreement between the Republic of Korea and the United States of America against textile and clothing imported from the United States of America, the Trade Commission shall consider the following matters, when it judges the presence of injury, etc. to the industry: Provided, That changes in technology and customer preference shall not be considered:
 1. Whether it falls under any subparagraph of paragraph (7);
 2. The extent of impact which the increase in the import of the goods concerned has on the changes in production, productivity, facility capacity utilization, inventory, market share, export, wages, employment, domestic prices, profits, and investment, etc. of the relevant industry.
- (9) The Trade Commission shall cease the investigation under any of circumstances described in the following subparagraphs even after it has decided to commence such investigation:
 1. Where the applicant for investigation withdraws the application;

2. Where the head of the relevant central administrative agency recommends the suspension of investigation on the ground of agreement with a relevant country to prevent or remedy injury, etc. to an industry.
- (10) Where the Trade Commission recommends the implementation of FTA safeguard measures under Article 22-3 (2) of the Act, it shall do so within one month from the date when the injury, etc. to an industry has been judged under paragraph (6), and the recommended period of the implementation shall not exceed the period fixed by an agreement with a relevant country under each subparagraph of paragraph (1).
- (11) Where the Trade Commission has received an application for provisional FTA safeguard measures from an applicant for investigation under Article 22-3 (4) of the Act, Article 19 (2), (3) and (5) shall apply mutatis mutandis. In such cases, "provisional safeguard measures" shall be deemed "provisional FTA safeguard measures."
- (12) Where the Trade Commission has received an application for provisional FTA safeguard measures (excluding an application for provisional FTA safeguard measures against automobiles falling under No. 8703 or 8704 mentioned in the schedule of concessions of the Republic of Korea in accordance with the Free Trade Agreement between the Republic of Korea and the United States of America) against the United States of America, Canada, the Socialist Republic of Vietnam, or the Republic of Colombia as provided for in Article 10.3 of the Free Trade Agreement between the Republic of Korea and the United States of America, Article 7.3 of the Free Trade Agreement between the Republic of Korea and Canada, Article 7.3 of the Free Trade Agreement between the Republic of Korea and the Socialist Republic of Vietnam, or Article 7.3 of the Free Trade Agreement between the Republic of Korea and the Republic of Colombia, respectively, it shall publish the means to acquire the details of such application and the facts that any person may raise an objection against such application for at least 20 days in the Official Gazette. *<Amended by Presidential Decree No. 23339, Dec. 2, 2011; Presidential Decree No. 25399, Jun. 25, 2014; Presidential Decree No. 25849, Dec. 11, 2014; Presidential Decree No. 26587, Oct. 13, 2015>*
- (13) A person who intends to file an application for the extension of FTA safeguard measures as provided for in Article 22-3 (5) of the Act shall submit to the Trade Commission the application indicating the matters provided for in

subparagraphs of Article 15 (1) (limited to any matters whose details have changed) and subparagraphs of Article 21-2 (1), accompanied by the materials verifying the details, not later than six months before the expiration date of the relevant FTA safeguard measures. In such cases, where the Trade Commission recommends to extend the FTA safeguard measures as provided for in Article 22-3 (5) of the Act, it shall recommend the head of the central administrative agency concerned to extend the FTA safeguard measures not later than one month prior to the expiration date of the FTA safeguard measures.

- (14) The Trade Commission shall publish the details of the following subparagraphs and notify separately the applicant for investigation, interested persons, and the head of the relevant central administrative agency of such details:
1. Commencement decision and closing of investigation;
 2. Judgment on whether any injury, etc. exists to an industry;
 3. Recommendation for the implementation of FTA safeguard measures and provisional FTA safeguard measures, and the extension of FTA safeguard measures.
- (15) Where the head of the relevant central administrative agency has been recommended from the Trade Commission for FTA safeguard measures, provisional FTA safeguard measures, the extension of FTA safeguard measures, or the implementation of measures to promote restructuring (hereafter referred to as "FTA safeguard measures, etc." in this Article), he/she shall determine whether to implement such measures and the details and the duration of such measures within 30 days (in cases of the extension of FTA safeguard measures, before such measures come to a close), upon hearing the opinions of the head of another central administrative agency concerned under Article 19 (2) of the Act, and then shall notify the Trade Commission thereof. In such cases, if preparation is necessary, such as the consultation with a relevant country and amendments of Acts and statutes to implement the FTA safeguard measures, etc., the period required for such preparation shall not be included in the said period.
- (16) When the period for FTA safeguard measures against any of the following nations is at least a year, the head of the relevant central administrative agency shall periodically relax such measures in a gradual manner: *<Amended by Presidential Decree No. 23339, Dec. 2, 2011; Presidential Decree No. 24231, Dec. 14, 2012; Presidential Decree No. 25399, Jun. 25, 2014; Presidential Decree No. 25849,*

Dec. 11, 2014; Presidential Decree No. 26587, Oct. 13, 2015>

1. The Republic of Singapore;
2. Member states of the Association of Southeast Asian Nations;
3. The United States of America (limited to cases where items subject to FTA safeguard measures are items, other than automobiles falling under No. 8703 or 8704 mentioned in the schedule of concessions of the Republic of Korea in accordance with the Free Trade Agreement between the Republic of Korea and the United States of America);
4. The Republic of Turkey;
5. The Republic of Colombia; <<Enforcement Date: Effective Date of the Free Trade Agreement between the Republic of Korea and the Republic of Colombia>>
6. Australia;
7. New Zealand;
8. The Socialist Republic of Vietnam;
9. The People's Republic of China.

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

<<Enforcement Date: Undesignated>> Article 24

Article 24-2 (Exclusion from Application of Safeguard Measures)

- (1) Countries to be excluded from the application of safeguard measures as provided for in Article 22-4 (2) of the Act refer to the United States of America, the Republic of India, the Republic of Peru, Australia, and Canada. <Amended by Presidential Decree No. 21919, Dec. 30, 2009; Presidential Decree No. 23052, Jul. 28, 2011; Presidential Decree No. 25399, Jun. 25, 2014; Presidential Decree No. 25849, Dec. 11, 2014>
- (2) Where the Trade Commission has judged that the increase in the import of specific goods from the United States of America, the Republic of India, the Republic of Peru, Australia, and Canada is not the substantial cause behind severe injury to the domestic industry based on the results of the investigation under Article 22-4 (1) of the Act, it may recommend the heads of related central administrative agencies to exclude the United States of America, the Republic of India, the Republic of Peru, Australia, and Canada from the list of the countries subject to safeguard measures. <Amended by Presidential Decree No. 21919, Dec. 30, 2009; Presidential Decree No. 23052, Jul. 28, 2011; Presidential Decree No. 25399, Jun. 25, 2014; Presidential Decree No. 25849, Dec. 11, 2014>
- (3) In judging whether to apply safeguard measures, the heads of related central administrative agencies may exclude the United States of America, the Republic

of India, the Republic of Peru, Australia, and Canada from the list of the countries subject to safeguard measures, when it has been recommended by the Trade Commission as provided for in paragraph (2). <Amended by Presidential Decree No. 21919, Dec. 30, 2009; Presidential Decree No. 23052, Jul. 28, 2011; Presidential Decree No. 25399, Jun. 25, 2014; Presidential Decree No. 25849, Dec. 11, 2014>

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

Article 24-2 (Exclusion from Application of Safeguard Measures)

- (1) Countries to be excluded from the application of safeguard measures as provided for in Article 22-4 (2) of the Act refer to the United States of America, the Republic of India, the Republic of Peru, the Republic of Colombia, Australia, Canada, New Zealand, and the Socialist Republic of Vietnam. <Amended by Presidential Decree No. 21919, Dec. 30, 2009; Presidential Decree No. 23052, Jul. 28, 2011; Presidential Decree No. 25399, Jun. 25, 2014; Presidential Decree No. 25849, Dec. 11, 2014; Presidential Decree No. 26587, Oct. 13, 2015>
- (2) Where the Trade Commission has judged that the increase in the import of specific goods from the United States of America, the Republic of India, the Republic of Peru, the Republic of Colombia, Australia, Canada, New Zealand, and the Socialist Republic of Vietnam is not the substantial cause behind severe injury to the domestic industry based on the results of the investigation under Article 22-4 (1) of the Act, it may recommend the heads of related central administrative agencies to exclude the United States of America, the Republic of India, the Republic of Peru, the Republic of Colombia, Australia, Canada, New Zealand, and the Socialist Republic of Vietnam from the list of the countries subject to safeguard measures. <Amended by Presidential Decree No. 21919, Dec. 30, 2009; Presidential Decree No. 23052, Jul. 28, 2011; Presidential Decree No. 25399, Jun. 25, 2014; Presidential Decree No. 25849, Dec. 11, 2014; Presidential Decree No. 26587, Oct. 13, 2015>
- (3) In judging whether to implement safeguard measures, the heads of related central administrative agencies may exclude the United States of America, the Republic of India, the Republic of Peru, the Republic of Colombia, Australia, Canada, New Zealand, and the Socialist Republic of Vietnam from the list of the countries subject to safeguard measures, when it has been recommended by the Trade Commission as provided for in paragraph (2). <Amended by Presidential Decree No. 21919, Dec. 30, 2009; Presidential Decree No. 23052, Jul. 28, 2011;

Presidential Decree No. 25399, Jun. 25, 2014; Presidential Decree No. 25849, Dec. 11, 2014; Presidential Decree No. 26587, Oct. 13, 2015>

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]
<<Enforcement Date: Undesignated>> Article 24-2

Article 24-3 (Trade Damage Support Measures on Increase in Import of Specific Goods following FTA)

With respect to investigation and judging trade damage under Article 22-5 (1) of the Act, Articles 12 through 17 shall apply mutatis mutandis. In such cases, "Article 15 of the Act" shall be construed as "Article 22-5 (1) of the Act", "Article 16 of the Act", "Article 16 (1) of the Act" and "Article 16 (2) of the Act" as "Article 22-5 (2) of the Act", "investigation into injury to an industry" as "investigation into trade damage", "applicant for investigation into injury to an industry" as "applicant for investigation into trade damage", "application for investigation into injury to an industry" as "application for investigation into trade damage", "investigation into injury to the domestic industry" as "investigation into domestic trade damage" and "injury to an industry" as "trade damage."

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

Article 24-4 (Cooperation with FTA Counterparts)

- (1) The Trade Commission may cooperate with a FTA counterpart, as provided for in Article 22-6 of the Act, as follows:
1. Exchange of information and opinions with a FTA counterpart, on rules, international norms, policies, practices, etc. related to remedy against injury to an industry, and promotion of understanding;
 2. Consultation about procedures, etc. related to remedy against injury to an industry, and supervision on whether to implement and comply with agreements among states;
 3. Establishment, development and operation of education and training programs among states to nurture experts in remedy against injury to an industry;
 4. Discussion of major issues, etc. among states related to remedy against injury to an industry;
 5. Other cooperation with relevant institutions to smoothly perform duties related to remedy against injury to an industry.
- (2) The Trade Commission may organize and operate a cooperative meeting with the counterpart in partnership with the heads of related central administrative agencies concerned, if necessary for smoothly performing duties related to

remedy against injury to an industry, and cooperation.

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

Article 25 (Application, etc. for Investigation into Injury to Domestic Industry due to Violations of International Trade Norms by Trading Partner Countries)

- (1) "International trade norms" in Article 25-2 (1) of the Act means the Marrakesh Agreement Establishing the World Trade Organization (including the Annexes thereof) and other agreements on trade concluded between the Republic of Korea and its trading partner countries (including local governments of the trading partner countries).
- (2) The Trade Commission may conduct an investigation pursuant to Article 25-2 (1) of the Act (hereinafter referred to as "investigation into injury") ex officio or upon request of a person with an interest pursuant to Article 15 of the Act.
- (3) A person who intends to file an application for an investigation into injury shall submit to the Trade Commission an application indicating the following subparagraphs, accompanied by the materials verifying the details:
 1. The name, address and details of business of the applicant;
 2. The system and practices of the trading partner countries;
 3. The goods or service relating to the investigation into injury and the situation of trade;
 4. The situation of injury or of apprehension of injury to the domestic industry.
- (4) Where the Trade Commission is applied for the investigation into injury, it shall decide whether to commence the investigation into injury within 60 days from the date of receipt of the application.
- (5) Where the Trade Commission has decided whether to commence the investigation into injury, it shall notify the applicant of the details, and it shall notify the government of the trading partner country of the details only if it has decided to investigate into injury and publish such fact in the Official Gazette.
- (6) Where the Trade Commission executes an investigation into injury, it shall be conducted in writing in principle, but an on-site inspection may, if necessary, be carried out. In such cases, Article 4 (2) shall apply mutatis mutandis to the on-site inspection method.
- (7) In conducting the investigation into injury, the Trade Commission shall furnish the government of the trading partner country with an opportunity to submit its opinion.
- (8) Where any of the following causes occurs during the investigation period into

injury, the Trade Commission may suspend or close the investigation into injury:

1. Where the applicant withdraws his/her application for the investigation into injury;
 2. Where the government of the trading partner country alters or abolishes the system and practices, or promises to alter or abolish them;
 3. Where the government of the trading partner country compensates or promises to compensate the injury to the domestic industry caused by the system and practices;
 4. Where it is judged difficult to continue the investigation into injury because the applicant is missing, or refuses to submit materials, etc.
- (9) Where the Trade Commission has suspended or closed the investigation into injury, it shall notify such fact to the applicant and the government of the trading partner country separately and publish such fact in the Official Gazette.

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

Article 26 (Judgment and Recommendation, etc.)

- (1) The Trade Commission shall judge whether the domestic industry producing goods or services under Article 25 (3) 3 suffers any injury or threat thereof, due to the system and practices of the trading partner country within one year from the date of decision to commence the investigation into injury: Provided, That when the consultation with the trading partner country is underway or it is inevitable for the sufficient investigation into injury, the investigation period may be extended within the extent of six months.
- (2) The Trade Commission shall notify the applicant and the government of the trading partner country of the result of judgment pursuant to paragraph (1).
- (3) Necessary measures pursuant to Article 25-3 of the Act means the following:
 1. The execution of bilateral consultation with the trading partner country;
 2. The execution of improvement procedures for the system and practices of the trading partner country through the World Trade Organization, etc.;
 3. The execution of measures necessary for the correction of violation of international trade norms by the trading partner country.
- (4) The head of the relevant central administrative agency who has been recommended for the execution of the measures pursuant to paragraph (3) may, if necessary, request the Trade Commission to submit materials, etc. and shall notify the Trade Commission of the result of the execution of measures.

- (5) Matters necessary for the investigation into injury, other than Article 25 and paragraphs (1) through (4), shall be determined and publicly announced by the Trade Commission.

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

Article 27 (Formulation, Execution, etc. of Basic Plan for Promotion of Trade Remedy)

- (1) The Trade Commission shall formulate a basic plan (hereinafter referred to as "basic plan") to promote the duties of the Trade Commission (hereinafter referred to as "trade remedy, etc.") pursuant to Article 28 of the Act.
- (2) The basic plan shall contain the following:
1. The basic goal and direction of the trade remedy, etc. for purposes of establishing a fair trade order and protecting the domestic industry;
 2. Other plans for the dissemination and substantiality of the trade remedy, etc.
- (3) For the efficient execution of the basic plan, the Trade Commission may request cooperation from the head of the relevant administrative agency or the head of the relevant organization relating to trade remedy, etc. and render necessary assistance to the agency and organization executing the business relating to trade remedy, etc. within budgetary limits.

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

Article 28 (Challenge to Commissioner)

- (1) A person who intends to file a request for a challenge pursuant to Article 34 (2) of the Act shall explain to the chairperson in writing the reasons of the request for challenge within three days from the date of the request.
- (2) The commissioner who has been challenged shall submit without delay his/her opinion regarding the request for challenge to the chairperson.

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

Article 29 (Operation of Meetings)

- (1) The chairperson of the Trade Commission shall convene meetings of the Trade Commission and preside over the meetings.
- (2) When the chairperson intends to convene a meeting of the Trade Commission, he/she shall notify each commissioner of the date, time, venue and agenda determined in writing by not later than seven days prior to the meeting: Provided, That this shall not apply in cases of emergency or other unavoidable reasons.
- (3) Allowances or traveling expenses may be paid to commissioners (except

permanent commissioners), witnesses, appraisers, and experts who attend a meeting of the Trade Commission, within budgetary limits: Provided, That this shall not apply where commissioners, who are public officials, attend the meetings of the Trade Commission in direct connection to their duties.

- (4) In addition to the matters under paragraphs (1) through (3), other details necessary for the operation of the Trade Commission shall be determined by the Trade Commission.

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

Article 30 (Investigation and Hearing, etc. of Opinions)

- (1) Where the Trade Commission intends to take actions, such as hearing of opinions and appointment of an appraiser under Article 36 (1) of the Act, the Trade Commission shall notify related persons or agencies in writing of the date, time, place, purpose, details, and other necessary matters prior to such actions.
- (2) The Trade Commission may request the following data from the heads of relevant administrative agencies pursuant to Article 36 (4) of the Act: *<Newly Inserted by Presidential Decree No. 22252, Jul 6, 2010>*
1. Performance of customs clearance;
 2. Data for verifying whether to be a continuing business entity;
 3. Other data necessary for the investigation conducted by the Trade Commission.

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

Article 31 (Handling of Business Confidential Records)

- (1) Any person who submits to the Trade Commission documents or records in relation to the investigation of unfair international trade practices or injury to an industry may request that the documents or records falling under any of the following subparagraphs be handled as business confidential. In such cases, a summary that may be disclosed shall be submitted, or if it is impracticable to submit it, an explanation of the reasons shall be submitted: *<Amended by Presidential Decree No. 25849, Dec. 11, 2014>*
1. Records relating to production cost;
 2. Records relating to the name, address, selling price, or transaction amount of each client;
 3. Manufacturing processes, production facilities, or undisclosed accounting records;

4. Other records that are acknowledged as confidential because disclosing them to competitors may cause injury or disruption to their business operations.
- (2) The Trade Commission shall determine whether to handle the records as business confidential, and the extent of protection, within ten days from the date on which the Trade Commission receives the request under paragraph (1), and notify the requesting party of such determination.

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

Article 31-2 (Re-Examination of Regulation)

The Minister of Trade, Industry and Energy shall examine the appropriateness of the following matters every three years from each base date specified in the following subparagraphs (referring to the period that ends on the day before the base date of every third year) and shall take measures for improvement, etc.:

<Amended by Presidential Decree No. 27751, Dec. 30, 2016>

1. Method of calculation of the amount of a penalty surcharge under Article 6: January 1, 2015;
2. Standards for imposing penalty surcharges under Article 7 (1) and attached Table 1: January 1, 2015;
3. Standards for imposing penalty surcharges under Article 7 (2) and attached Table 2: January 1, 2015;
4. Persons subject to charges for compelling compliance, procedures and standards for imposing charges for compelling compliance, and other matters under Article 10-2 and attached Table 3: January 1, 2015.

[This Article Newly Inserted by Presidential Decree No. 25840, Dec. 9, 2014]

Article 32 (Administrative Fines)

The standards for imposing administrative fines referred to in Article 42 (1) of the Act shall be as provided for in attached Table 4. *<Amended by Presidential Decree No. 21541, Jun. 16, 2009; Presidential Decree No. 22252, Jul. 6, 2010>*

[This Article Wholly Amended by Presidential Decree No. 21055, Sep. 30, 2008]

ADDENDA

Article 1 (Enforcement Date)

This Decree shall enter into force on the date of its promulgation.

Article 2 Omitted.

ADDENDUM *<Presidential Decree No. 18312, Mar. 17, 2004>*

This Decree shall enter into force on the date of its promulgation.

ADDENDA <Presidential Decree No. 18565, Oct. 21, 2004>

- (1) (Enforcement Date) This Decree shall enter into force on October 21, 2004.
- (2) (Applicability) Special safeguard measures, which will be valid until December 10, 2013, implemented against goods whose country of origin is China to prevent or remedy the cases falling under Article 22-2 (1) 1 and 2 of the Act pursuant to the amended provisions of Article 22-2 shall be applied only to the goods which are declared for import by the said date, and special safeguard measures, which will be valid until December 31, 2008, implemented against goods whose country of origin is China to prevent or remedy the cases falling under Article 22-2 (1) 3 of the Act pursuant to the amended provisions of Article 22-2 shall be applied only to the goods which are declared for import by the said date.
- (3) (Transitional Measures concerning Standards for Imposition of Penalty Surcharges and Administrative Fines) In application of the standards for imposing penalty surcharges and administrative fines on any act committed before this Decree enters into force, the previous provisions shall prevail.

ADDENDUM <Presidential Decree No. 19325, Feb. 8, 2006>

This Decree shall enter into force on the date of its promulgation: Provided, That the amended provisions of Article 24-2 shall enter into force on the date the Free Trade Agreement between the Government of the Republic of Korea and the Government of the Republic of Singapore becomes effective in the Republic of Korea.

ADDENDUM <Presidential Decree No. 20086, Jun. 11, 2007>

This Decree shall enter into force on the date of its promulgation: Provided, That with respect to any signatory country which may not complete its domestic procedures required to effectuate the agreement by the date the agreement came into effect under Article 21 (3) of the Agreement on Trade in Goods under the Framework Agreement on Comprehensive Economic Cooperation among the Governments of the Republic of Korea and the Member Countries of the Association of Southeast Asian Nations, it shall take effect from the date the signatory country informs on the completion of such domestic procedures.

ADDENDA <Presidential Decree No. 20678, Feb. 29, 2008>

Article 1 (Enforcement Date)

This Decree shall enter into force on the date of its promulgation. (Proviso Omitted.)

Articles 2 through 7 Omitted.

ADDENDUM <Presidential Decree No. 21055, Sep. 30, 2008>

This Decree shall enter into force on the date of its promulgation: Provided, That matters regarding safeguard measures between the Republic of Korea and the United States of America among the amended provisions of Article 24, and the amended provisions of Article 24-2 shall enter into force on the date the Free Trade Agreement between the Republic of Korea and the United States of America becomes effective in the Republic of Korea.

ADDENDUM <Presidential Decree No. 21541, Jun. 16, 2009>

This Decree shall enter into force on June 20, 2009.

ADDENDUM <Presidential Decree No. 21919, Dec. 30, 2009>

This Decree shall enter into force on the date the Comprehensive Economic Partnership Agreement between the Republic of Korea and the Republic of India becomes effective in the Republic of Korea.

ADDENDA <Presidential Decree No. 22252, Jul. 6, 2010>

Article 1 (Enforcement Date)

This Decree shall enter into force on the date of its promulgation.

Article 2 (Applicability to Investigation and Judgement Based on Available Data)

The amended provisions of Article 4-4 shall apply beginning from the commencement of the first investigation of unfair international trade practices after this Decree enters into force.

Article 3 (Applicability to Methods of Calculation of Penalty Surcharges)

The amended provisions of Article 6 (3) shall apply beginning from the first person who commits unfair international trade practices after this Decree enters into force.

ADDENDA <Presidential Decree No. 22852, Apr. 5, 2011>

Article 1 (Enforcement Date)

This Decree shall enter into force on the date of its promulgation.

Article 2 (Transitional Measures concerning Administrative Fines)

The application of standards for imposing administrative fines against acts committed before this Decree enters into force shall be governed by the previous provisions, notwithstanding the amended provisions of attached Table 4.

ADDENDUM <Presidential Decree No. 22986, Jun. 27, 2011>

This Decree shall enter into force on the date when the Free Trade Agreement between the Republic of Korea and the European Union and its Member States becomes effective in the Republic of Korea.

ADDENDUM <Presidential Decree No. 23052, Jul. 28, 2011>

This Decree shall enter into force on the date when the Free Trade Agreement between the Republic of Korea and the Republic of Peru becomes effective in the Republic of Korea.

ADDENDUM <Presidential Decree No. 23339, Dec. 2, 2011>

This Decree shall enter into force on the date when the Free Trade Agreement between the Republic of Korea and the United States of America becomes effective in the Republic of Korea.

ADDENDUM <Presidential Decree No. 24231, Dec. 14, 2012>

This Decree shall enter into force on the date when the Free Trade Agreement between the Republic of Korea and the Republic of Turkey becomes effective in the Republic of Korea.

ADDENDUM <Presidential Decree No. 25399, Jun. 25, 2014>

This Decree shall enter into force on the date when the Free Trade Agreement between the Republic of Korea and the Republic of Colombia becomes effective in the Republic of Korea: Provided, That the amended provisions of Articles 5 (3) and (4) and 10 (4) shall enter into force on the date of promulgation of this Decree.

ADDENDA <Presidential Decree No. 25840, Dec. 9, 2014>

Article 1 (Enforcement Date)

This Decree shall enter into force on January 1, 2015.

Articles 2 through 16 Omitted.

ADDENDUM <Presidential Decree No. 25849, Dec. 11, 2014>

This Decree shall enter into force on the date of its promulgation: Provided, That the amended provisions of Article 24 (1) 11, (5) 5, and (16) 6 and Article 24-2 (1) through (3) (limited to Australia) shall enter into force on the date when the Free Trade Agreement between the Republic of Korea and Australia becomes effective in the Republic of Korea, and the amended provisions of Article 24 (1) 12 and (12) and Article 24-2 (1) through (3) (limited to Canada) shall enter into force on the date when the Free Trade Agreement between the Republic of Korea and Canada becomes effective in the Republic of Korea.

ADDENDUM <Presidential Decree No. 26587, Oct. 13, 2015>

This Decree shall enter into force on the date of its promulgation: Provided, That the amended provisions of Article 24 (1) 13, (5) 5 (limited to New Zealand), and (16) 7 and Article 24-2 (1) through (3) (limited to New Zealand) shall enter into force on the date when the Free Trade Agreement between the Republic of Korea and New Zealand becomes effective in the Republic of Korea, the amended provisions of Article 24 (1) 14, (5) 5 (limited to the Socialist Republic of Vietnam), (12) (limited to the Socialist Republic of Vietnam), and (16) 8 and Article 24-2 (1) through (3) (limited to the Socialist Republic of Vietnam) shall enter into force on the date when the Free Trade Agreement between the Republic of Korea and the Socialist Republic of Vietnam becomes effective in the Republic of Korea, and the amended provisions of Article 24 (1) 15 and (16) 9 shall enter into force on the date when the Free Trade Agreement between the Republic of Korea and the People's Republic of China becomes effective in the Republic of Korea.

ADDENDA <Presidential Decree No. 27751, Dec. 30, 2016>

Article 1 (Enforcement Date)

This Decree shall enter into force on January 1, 2017. (Proviso Omitted.)

Articles 2 through 12 Omitted.

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