

(NOTE) The English translations of the Japanese Act and Order (extract) as set forth below are tentative, and only the original Japanese texts have legal effect. These translations are to be used solely as a reference to aid in the understanding of the Japanese Act and Order.

Customs Act

(Act No. 61 of April 2, 1954)

Latest Revision: Act No.5 of March 31, 2022

Section 4 Goods the Exportation or Importation of which is Prohibited

Subsection 1 Goods the Exportation of which is Prohibited

(Goods the exportation of which is prohibited)

Article 69-2. Goods set forth in the following shall not be exported:

- (i) narcotic drugs, psychotropic substances, cannabis, opium, opium poppies, and stimulants (including raw materials thereof as referred to in the Stimulant Drugs Control Act (Act No. 252 of 1951)); provided, however, that those exported by the Government or by a person authorized, under other laws and regulations, to export pursuant to the provisions thereof are excluded;
 - (ii) child pornography (i.e., child pornography provided for in paragraph (3) of Article 2 (Definitions) of the Act on Regulation and Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children (Act No. 52 of 1999));
 - (iii) goods that infringe patent rights, utility model rights, design rights, trademark rights, copyrights, copyright neighboring rights or breeder's rights;
 - (iv) goods that compose the acts set forth in any of items (i) to (iii), (x), (xvii) or (xviii) of paragraph (1) of Article 2 (Definitions) of the Unfair Competition Prevention Act (Act No. 47 of 1993) (excluding those acts as specified in any of items (i) to (v), (vii) or (ix) of paragraph (1) of Article 19 (Exclusion from application, etc.) of that Act for the category of unfair competition as set forth respectively in these items).
- (2) The Director General of Customs may confiscate and dispose of goods destined for export, set forth in item (i), (iii) or (iv) of the preceding paragraph.

(3) If the Director General of Customs has reasonable grounds to believe that there are, among those goods destined for export under the provisions of this Chapter, goods that may fall under those set forth in item (ii) of paragraph (1), the Director General of Customs shall notify the findings to a person who seeks to export the goods.

(Verification procedures pertaining to goods the exportation of which is prohibited)

Article 69-3. If the Director General of Customs considers that there are, among those goods destined for export under the provisions of this Chapter, goods that may fall under those set forth in item (iii) or (iv) of paragraph (1) of the preceding Article, the Director General of Customs shall, pursuant to the provisions of Cabinet Order, initiate procedures for verifying whether these goods fall under those set forth in these items (hereinafter the procedures identified in this paragraph are referred to as “verification procedures” in this Subsection). In this case, the Director General of Customs shall, pursuant to the provisions of Cabinet Order, notify a patentholder or other right holder and a person who seeks to export the goods of the fact that verification procedures are to be initiated for the goods and that the patentholder or other right holder and the exporter may produce evidence and state their opinions as to whether they do or do not fall under those set forth in item (iii) or (iv) of paragraph (1) of the preceding Article and other matters specified by Cabinet Order (“patentholder or other right holder” as used in this Article and in the next Article means a holder of patent right, utility model right, design right, trademark right, copyright, copyright neighboring right or breeder’s right, or a person who has the right to seek an injunction against unfair competition (i.e., a person who may, pursuant to the provisions of paragraph (1) of Article 3 (Right to seek an injunction) of the Unfair Competition Prevention Act, seek the suspension or prevention of infringement of business interests the infringement of which has been caused by the acts specified in item (iv) of paragraph (1) of the preceding Article with respect to goods set forth in that item; hereinafter the same applies in this Subsection)).

(2) When the Director General of Customs issues a notification prescribed in the preceding paragraph, the Director General of Customs shall also notify the patentholder or other right holder relating to goods at issue of the names and addresses of the person who seeks to export the goods and the consignee and also notify the person who seeks to export the goods of the name and address of the patentholder or other right holder concerned.

(3) If the Director General of Customs finds that the name or address of a manufacturer of goods subject to verification procedures is evident from a written export declaration or other documents filed with respect to the goods pursuant to the provisions of Article

67 (Export or import permission), from other documents submitted to the Director General of Customs in connection with the verification procedures or from indications affixed to the goods, the Director General of Customs is to notify the patentholder or other right holder concerned of the name or address of the manufacturer. The notification may occur simultaneously with the notification referred to in paragraph (1), or it may occur thereafter, provided that it occurs within the period during which the verification procedures are carried out.

(4) The measures referred to in paragraph (2) of the preceding Article may not be taken by the Director General of Customs for the goods destined for export under the provisions of this Chapter unless the goods have undergone verification procedures.

(5) If the Director General of Customs has verified as to whether the goods subject to verification procedures (in the next paragraph referred to as “suspect goods”) do or do not fall under those set forth in item (iii) or (iv) of paragraph (1) of the preceding Article, the Director General of Customs shall notify the patentholder or other right holder concerned and the person who seeks to export the goods of the findings and the reasons therefor; provided, however, that this does not apply to the case where the notification prescribed in the next paragraph has been issued.

(6) If the suspect goods have ceased to be exported before the notification of verification pertaining to the suspect goods, as prescribed in the main clause of the preceding paragraph, is issued, the Director General of Customs shall notify the patentholder or other right holder concerned of that fact and shall discontinue the verification procedures. In this case, a person who ceases to export the suspect goods shall notify the Director General of Customs of that fact in advance.

(7) Any person who has received the notification prescribed in paragraph (2) or (3) shall not divulge any matters to have been notified to any other person without reason, nor shall use them for any unjust purposes.

(Procedures for application pertaining to goods the exportation of which is prohibited)

Article 69-4. A patentholder or other right holder may, pursuant to the provisions of Cabinet Order, produce to any of the Directors General of Customs evidence necessary to demonstrate prima facie infringement with respect to goods which, the holder believes, infringe the patent right, utility model right, design right, trademark right, copyright, copyright neighboring right, breeder’s right or business interests, and may file with the Director General of Customs an application for verification procedures to be initiated by that or other Director General of Customs if the goods are to be exported in accordance with the provisions of this Chapter (hereinafter in this Article and in the

next Article, the Director General of Customs with whom an application is filed is referred to as “the Director General of Customs with whom application is filed”). In this case, a person who has the right to seek an injunction against unfair competition shall, pursuant to the provisions of the Ministry of Economy, Trade and Industry Order, seek from the Minister of that Ministry, in the case where the goods are those set forth in item (iv) of paragraph (1) of Article 69-2 (Goods the exportation of which is prohibited) (excluding those pertaining to item (x) of paragraph (1) of Article 2 (Definitions) of the Unfair Competition Prevention Act), the opinion with respect to the matters specified by that Order, which may stipulate, among other things, that the indication of goods, etc. provided for in item (i) of paragraph (1) of Article 2 of that Act and related to that person be well known among consumers, or in the case where the goods are those set forth in item (iv) of paragraph (1) of Article 69-2 (limited to those pertaining to item (x) of paragraph (1) of Article 2 of that Act), the certification with respect to the fact that the goods at issue are those obtained by the acts of improper use as provided for in item (x) of paragraph (1) of Article 2 of that Act and that a person who is likely to export the goods was, at the time when they were transferred to that person, aware that they were obtained by such acts and that the person was grossly negligent in failing to know that they were so obtained, and shall submit the details of the opinion or certification in writing to the Director General of Customs with whom application is filed.

(2) The Director General of Customs with whom application is filed may elect not to accept the application referred to in the preceding paragraph if the evidence is found insufficient to demonstrate the fact of prima facie infringement pertaining to the application.

(3) When the application prescribed in paragraph (1) has been filed, the Director General of Customs with whom application is filed, if the application has been accepted, shall notify the person who has filed the application of that fact and the effective period of the application (i.e., the period during which the Director General of Customs is to carry out, based on that application, verification procedures each time the Director General of Customs finds that there are, among goods to be exported during that period pursuant to the provisions of this Chapter, goods pertaining to that application) and if the application has not been accepted pursuant to the provisions of the preceding paragraph, shall notify that person of that fact and the reason therefor.

(4) When the Director General of Customs has accepted the application prescribed in paragraph (1) or the application has been accepted by any other Director General of Customs, if the verification procedures for the goods pertaining to that application has been initiated, the Director General of Customs shall, pursuant to the provisions of

Cabinet Order, provide, upon request, the person who has filed that application or the person who seeks to export the goods with an opportunity to inspect the goods; provided, however, that this does not apply to the case where verification procedures have been discontinued pursuant to the provisions of paragraph (6) of the preceding Article.

(Seeking opinions of technical advisers with respect to application for export suspension)

Article 69-5. When an application prescribed in paragraph (1) of the preceding Article has been filed, the Director General of Customs with whom application is filed may, if it is found necessary, designate persons with academic background and experience in intellectual property rights (i.e., intellectual property rights as defined in paragraph (2) of Article 2 (Definitions) of the Intellectual Property Basic Act (Act No. 122 of 2002); hereinafter the same applies), having no special interests with the parties involved in the case pertaining to the application, to serve as technical advisers and may, pursuant to the provisions of Cabinet Order, seek opinions of the technical advisers as to whether the evidence produced pursuant to the provisions of paragraph (1) of the preceding Article is sufficient to demonstrate the fact of prima facie infringement pertaining to that application; provided, however, that this does not apply to the matters with respect to which the opinion or certification of the Minister of Economy, Trade and Industry is to be sought pursuant to the provisions of the second sentence of paragraph (1) of the preceding Article.

(Deposit, etc. pertaining to application for export suspension)

Article 69-6. When the Director General of Customs has accepted the application prescribed in paragraph (1) of Article 69-4 (Procedures for application pertaining to goods the exportation of which is prohibited) or the application has been accepted by any other Director General of Customs, if it is found necessary for ensuring compensation for damages that a person who seeks to export goods pertaining to the application is likely to incur from being unable to export until completion of the verification procedures for the goods, the Director General of Customs may order a person who has filed the application (hereinafter in this Article referred to as “applicant”) to make, within a specified period, a monetary deposit in an amount deemed to be sufficient to cover the damages with the deposit office to be designated by the Director General of Customs.

(2) If the amount of monetary deposit provided pursuant to the provisions of the

preceding paragraph is found insufficient to compensate for the damages provided for in that paragraph, the Director General of Customs may order the applicant to provide, within a specified period, a monetary deposit in an amount deemed to be equivalent to the shortfall.

(3) The monetary deposit to be provided pursuant to the provisions of the preceding two paragraphs may be replaced by National Government Bonds, Local Government Bonds or other securities which the Director General of Customs finds to be secure (other securities include book-entry transfer bonds as provided for in paragraph (1) of Article 278 (Deposit of transferred bonds) of the Act on Book-Entry Transfer of Corporate Bonds, Shares, etc. (Act No. 75 of 2001); the same applies in this Article and Article 69-10 (Request for discontinuance of verification procedures pertaining to goods the exportation of which is prohibited, etc.)).

(4) Necessary matters concerning procedures required by the Director General of Customs with respect to the deposit provided pursuant to the order prescribed in paragraph (1) or (2) are prescribed by Cabinet Order.

(5) If, pursuant to the provisions of Cabinet Order, an applicant has entered into a contract providing that the amount necessary to compensate for the damages provided for in paragraph (1) shall be paid on the applicant's behalf and has notified the Director General of Customs of that fact within the period specified in paragraph (1) or (2), the applicant may not deposit the whole or part of the amount referred to in paragraph (1) or (2) while the contract remains in effect.

(6) An exporter of the goods referred to in paragraph (1) has the right, with respect to the claim for damages against an applicant as provided for in that paragraph, to be paid, in advance of any other creditors, from the monetary deposit provided pursuant to the provisions of paragraphs (1) and (2) (the monetary deposit includes securities prescribed in paragraph (3); the same applies in paragraphs (8) to (10)).

(7) Necessary matters concerning the exercise of right referred to in the preceding paragraph are prescribed by Cabinet Order.

(8) An applicant who has provided the monetary deposit pursuant to the provisions of paragraph (1) or (2) may recover the deposit if the situation falls under any of the cases as set forth in the following items:

(i) if the applicant has received a notification prescribed in the main clause of paragraph (5) of Article 69-3 (Verification procedures pertaining to goods the exportation of which is prohibited), stating the fact that goods which have caused the deposit to be provided fall under those set forth in item (iii) or (iv) of paragraph (1) of Article 69-2 (Goods the exportation of which is prohibited);

- (ii) if the applicant has received a notification prescribed in paragraph (6) of Article 69-3 with respect to goods which have caused the deposit to be provided;
 - (iii) if it has been proved to, and confirmed by the Director General of Customs that the exporter of the goods referred to in paragraph (1) has consented to the recovery of the monetary deposit, that the right to claim for compensation for damages as provided for in that paragraph has been extinguished by prescription or otherwise that the deposit for compensation for damages as provided for in that paragraph is no longer necessary;
 - (iv) if the applicant has entered into a contract referred to in paragraph (5) and the contract has, pursuant to the provisions of Cabinet Order, been approved by the Director General of Customs;
 - (v) if, pursuant to the provisions of Cabinet Order, it has been approved by the Director General of Customs to provide another deposit, in lieu of the deposit actually provided, on the grounds of redemption of the deposited securities or for other reason.
- (9) Necessary matters concerning recovery of the monetary deposit prescribed in the preceding paragraph are prescribed by the Ministry of Justice Order and the Ministry of Finance Order.
- (10) If a person who has been ordered to deposit pursuant to the provisions of paragraph (1) or (2) fails to deposit the whole amount within the period specified pursuant to the provisions of these paragraphs and also fails to notify of entering into a contract prescribed in paragraph (5), the Director General of Customs may discontinue verification procedures for the goods that have caused the deposit to be provided.
- (11) If the verification procedures have been discontinued pursuant to the provisions of the preceding paragraph, the Director General of Customs shall notify that fact to a person who has made an application pertaining to the verification procedures and a person who seeks to export goods subject to the verification procedures.

(Seeking opinions pertaining to goods the exportation of which is prohibited, etc.)

Article 69-7. When verification procedures have been initiated to determine whether goods do or do not fall under those that infringe a patent right, utility model right, design right or those that compose the acts set forth in item (x) of paragraph (1) of Article 2 (Definitions) of the Unfair Competition Prevention Act (excluding the acts provided for in item (vii) of paragraph (1) of Article 19 (Exclusion from application, etc.) of that Act; hereinafter the same applies in this paragraph and paragraph (9)), a patentholder or other right holder pertaining to the goods (i.e., a holder of patent right, utility model right or design right, or a person who has the right to seek an injunction against unfair competition (limited to a person pertaining to goods that compose the

acts set forth in item (x) of paragraph (1) of Article 2 of that Act; hereinafter the same applies in this paragraph, paragraph (9) and paragraph (1) of Article 69-10 (Request for discontinuance of verification procedures pertaining to goods the exportation of which is prohibited, etc.); hereinafter the same applies in this Article) or an exporter pertaining to the goods (i.e., a person who seeks to export goods subject to the verification procedures; hereinafter the same applies in this Article) may, pursuant to the provisions of Cabinet Order, request the Director General of Customs to seek, in the case where the verification procedures has been initiated to determine whether the goods subject to the procedures do or do not fall under those that infringe the patent right, utility model right or design right of the patentholder or other right holder (excluding a person who has the right to seek an injunction against unfair competition), the opinion of the Commissioner of the Patent Office with respect to the technical scope, etc., or in the case where the verification procedures have been initiated to determine whether the goods subject to the procedures do or do not fall under those that compose the acts set forth in item (x) of paragraph (1) of Article 2 of the Unfair Competition Prevention Act and related to the patentholder or other right holder (limited to a person who has the right to seek an injunction against unfair competition), the opinion of the Minister of Economy, Trade and Industry, provided that the request is made within the period during which the verification procedures are carried out, but before the day on which ten days (public holidays of the administrative organs are not included) elapse from the day on which the patentholder or other right holder receives the notification prescribed in paragraph (1) of Article 69-3 (Verification procedures pertaining to goods the exportation of which is prohibited) (hereinafter in this paragraph and paragraph (2) of Article 69-10 referred to as “the date of notification”) (in paragraphs (1) and (2) of Article 69-10, the day on which ten days elapse is referred to as “the day on which ten days elapse”) (if the Director General of Customs, before expiry of the period of ten days, finds it necessary to extend the period in consideration of the progress made with respect to verification procedures and other circumstances and notifies the patentholder or other right holder and the exporter of the findings, the period may be extended until the day on which twenty days (public holidays of the administrative organs are not included) elapse from the date of notification (in paragraph (1) of Article 69-10, the day on which twenty days elapse from the date of notification is referred to as “the day on which twenty days elapse”)) (“technical scope, etc.” as used in this paragraph means the technical scope provided for in paragraph (1) of Article 70 (Technical scope of patented invention) of the Patent Act (Act No. 121 of 1959) (including the case where applied mutatis mutandis pursuant to Article 26 (Mutatis mutandis application of the Patent

Act) of the Utility Model Act (Act No. 123 of 1959)), or the scope provided for in paragraph (1) of Article 25 (Scope of registered design, etc.) of the Design Act (Act No. 125 of 1959) (the same applies in paragraph (9) and Article 69-9 (Seeking opinions of technical advisers in verification procedures pertaining to goods the exportation of which is prohibited))).

(2) If a request prescribed in the preceding paragraph has been made, the Director General of Customs, pursuant to the provisions of Cabinet Order, is to seek the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office; provided, however, that this does not apply to the case where the Director General of Customs finds it evident that goods pertaining to the request as prescribed in that paragraph do or do not fall under those set forth in item (iii) or (iv) of paragraph (1) of Article 69-2 (Goods the exportation of which is prohibited) or otherwise where the Director General of Customs finds it unnecessary to seek the opinion of the Minister or the Commissioner.

(3) When a request prescribed in paragraph (1) has been made, if the Director General of Customs has not sought the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office pursuant to the provisions of the proviso to the preceding paragraph, the Director General of Customs shall notify the patentholder or other right holder or exporter who has made the request prescribed in paragraph (1) of that fact and the reason therefor.

(4) If the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office has been sought an opinion by the Director General of Customs pursuant to the provisions of the main clause of paragraph (2), the Minister or the Commissioner shall provide the opinion in writing within thirty days from the day on which the opinion is sought.

(5) If the Director General of Customs, pursuant to the provisions of the main clause of paragraph (2), has sought the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office, the Director General of Customs shall notify the patentholder or other right holder and the exporter concerned of that fact.

(6) If the opinion prescribed in paragraph (4) has been provided, the Director General of Customs shall notify the patentholder or other right holder and the exporter concerned of that fact and the details of the opinion.

(7) If the Director General of Customs has sought the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office pursuant to the provisions of the main clause of paragraph (2), the Director General of Customs shall not determine, before the opinion prescribed in paragraph (4) is provided, that, where a

person who requests the Director General of Customs to seek the opinion referred to in paragraph (1) is a patentholder or other right holder, the goods at issue do not fall under those set forth in item (iii) or (iv) of paragraph (1) of Article 69-2, or where a person who requests the Director General of Customs to seek the opinion referred to in paragraph (1) is an exporter, the goods at issue fall under those set forth in item (iii) or (iv) of paragraph (1) of that Article.

(8) When the Director General of Customs has sought the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office pursuant to the provisions of the main clause of paragraph (2), if, before the opinion prescribed in paragraph (4) is provided, the Director General of Customs has determined that, where a person who requests the opinion under paragraph (1) is a patentholder or other right holder, the goods at issue fall under those set forth in item (iii) or (iv) of paragraph (1) of Article 69-2 or where a person who requests the opinion under paragraph (1) is an exporter, the goods at issue do not fall under those set forth in item (iii) or (iv) of paragraph (1) of that Article, or if the Director General of Customs has discontinued the verification procedures for the goods at issue pursuant to the provisions of paragraph (6) of Article 69-3 or paragraph (10) of the preceding Article, the Director General of Customs shall notify the Minister or the Commissioner of that fact. In this case, the Minister or the Commissioner is not required to provide the opinion prescribed in paragraph (4).

(9) In verification procedures for determining whether goods fall under those that infringe a patent right, utility model right or design right or fall under those that compose the acts as set forth in item (x) of paragraph (1) of Article 2 of the Unfair Competition Prevention Act, if it is found necessary for the purpose of verification prescribed in paragraph (1) of Article 69-3, the Director General of Customs may seek, pursuant to the provisions of Cabinet Order, where the verification procedures have been initiated to determine whether goods fall under those that infringe a patent right, utility model right or design right, the opinion of the Commissioner of the Patent Office with respect to the technical scope, etc. as to whether the goods subject to the verification procedures do or do not fall under those that infringe the patent right, utility model right or design right of the patentholder or other right holder concerned (excluding a person who has the right to seek an injunction against unfair competition), or where the verification procedures have been initiated to determine whether goods fall under those that compose the acts set forth in that item, the opinion of the Minister of Economy, Trade and Industry as to whether the goods at issue fall under those that compose the acts set forth in that item, pertaining to the patentholder or other right

holder concerned (limited to a person who has the right to seek an injunction against unfair competition).

(10) Paragraphs (4) to (6) of this Article and paragraph (5) of the next Article apply *mutatis mutandis* to the case where opinion is sought pursuant to the provisions of the preceding paragraph. In this case, necessary technical replacement of terms is prescribed by Cabinet Order.

(Seeking opinions of the Minister of Agriculture, Forestry and Fisheries, etc. in verification procedures pertaining to goods the exportation of which is prohibited)

Article 69-8. In verification procedures for determining whether goods fall under those that infringe a breeder's right or those set forth in item (iv) of paragraph (1) of Article 69-2 (Goods the exportation of which is prohibited) (excluding goods pertaining to item (x) of paragraph (1) of Article 2 (Definitions) of the Unfair Competition Prevention Act: hereinafter the same applies in this paragraph and paragraph (5)), if it is found necessary for the purpose of verification prescribed in paragraph (1) of Article 69-3 (Verification procedures pertaining to goods the exportation of which is prohibited), the Director General of Customs may, pursuant to the provisions of Cabinet Order, seek, for reference purposes, the opinion of the Minister of Agriculture, Forestry and Fisheries in the case of verification procedures pertaining to goods that may infringe a breeder's right or the opinion of the Minister of Economy, Trade and Industry in the case of verification procedures pertaining to goods that may fall under those set forth in item (iv) of paragraph (1) of Article 69-2.

(2) If the Minister of Agriculture, Forestry and Fisheries or the Minister of Economy, Trade and Industry has been sought an opinion by the Director General of Customs pursuant to the provisions of the preceding paragraph, the Minister concerned shall provide the opinion in writing within thirty days from the date on which the opinion is sought.

(3) If the Director General of Customs has sought the opinion pursuant to the provisions of paragraph (1), the Director General of Customs shall notify that fact to a holder of breeder's right or a person who has the right to seek an injunction against unfair competition, involved in the verification procedures, and also to a person who seeks to export goods subject to the verification procedures.

(4) If the opinion prescribed in paragraph (2) has been provided, the Director General of Customs shall notify that fact and the details of the opinion to a holder of breeder's right or a person who has the right to seek an injunction against unfair competition and to a person who seeks to export the goods subject to the verification procedures, as referred

to in the preceding paragraph.

(5) When the Director General of Customs has sought the opinion of the Minister of Agriculture, Forestry and Fisheries or the Minister of Economy, Trade and Industry pursuant to the provisions of paragraph (1), if the Director General of Customs, before the opinion prescribed in paragraph (2) is provided, has determined that the goods at issue do or do not fall under those that infringe a breeder's right or those set forth in item (iv) of paragraph (1) of Article 69-2, or if the Director General of Customs has discontinued verification procedures for the goods at issue pursuant to the provisions of paragraph (6) of Article 69-3 or paragraph (10) of Article 69-6 (Deposit, etc. pertaining to application for export suspension), the Director General of Customs shall notify the Minister of Agriculture, Forestry and Fisheries or the Minister of Economy, Trade and Industry of that fact. In this case, the Minister concerned is not required to provide the opinion prescribed in paragraph (2).

(Seeking opinions of technical advisers in verification procedures pertaining to goods the exportation of which is prohibited)

Article 69-9. In verification procedures for determining whether goods do or do not fall under those set forth in item (iii) of paragraph (1) of Article 69-2 (Goods the exportation of which is prohibited) (excluding goods that infringe a breeder's right), if it is found necessary for the purpose of verification prescribed in paragraph (1) of Article 69-3 (Verification procedures pertaining to goods the exportation of which is prohibited), the Director General of Customs may designate persons with academic background and experience in intellectual property rights, having no special interests with the parties involved in the cases pertaining to the verification procedures, to serve as technical advisers, and may, pursuant to the provisions of Cabinet Order, seek opinions of the technical advisers for reference purposes; provided, however, that this does not apply to the technical scope, etc.

(Request for discontinuance of verification procedures pertaining to goods the exportation of which is prohibited)

Article 69-10. If verification procedures have been initiated for goods pertaining to the application prescribed in paragraph (1) of Article 69-4 (Procedures for application pertaining to goods the exportation of which is prohibited, etc.) which has been filed by a holder of a patent right, utility model right or design right or by a person who has the right to seek an injunction against unfair competition and has been accepted

(hereinafter in this Article a holder whose application has been accepted is referred to as “applicant”), a person who seeks to export the goods may, pursuant to the provisions of Cabinet Order, request the Director General of Customs to discontinue the verification procedures after the day as specified in each of the following items for the category of cases as set forth respectively therein, provided that the request is made while the verification procedures are carried out:

(i) when it is notified that the period until the day on which ten days elapse is extended pursuant to the provisions of paragraph (1) of Article 69-7 (Seeking the opinion pertaining to goods the exportation of which is prohibited, etc.): the day on which twenty days elapse (if a notification stating that the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office has been sought pursuant to the provisions of paragraph (5) of Article 69-7 (including the case where applied *mutatis mutandis* pursuant to paragraph (10) of Article 69-7; the same applies in the next item) has been received, the day on which twenty days elapse or the day on which ten days elapse from the date of receipt of the notification prescribed in paragraph (6) of Article 69-7 pertaining to seeking the opinion (including the case where applied *mutatis mutandis* pursuant to paragraph (10) of Article 69-7; the same applies in the next item), whichever comes later);

(ii) in the case other than the case set forth in the preceding item: the day on which ten days elapse (if a notification stating that the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office has been sought pursuant to the provisions of paragraph (5) of Article 69-7 has been received, the day on which ten days elapse or the day on which ten days elapse from the date of receipt of the notification prescribed in paragraph (6) of Article 69-7 pertaining to seeking the opinion, whichever comes later).

(2) If the Director General of Customs has initiated verification procedures for the goods pertaining to the application of the applicant, the Director General of Customs shall, before the day on which ten days elapse, notify the date of notification to a person who seeks to export the goods.

(3) If discontinuance of verification procedures has been requested pursuant to the provisions of paragraph (1), the Director General of Customs shall notify the applicant who has filed an application pertaining to the verification procedures of that fact and shall order the person who has so requested (hereinafter in this Article referred to as “requester”) to provide, within a specified period, a monetary deposit with the designated deposit office in an amount deemed sufficient to cover the damages that may be incurred by the applicant from exportation of the goods subject to the verification

procedures.

(4) The monetary deposit to be provided pursuant to the provisions of the preceding paragraph may be replaced by National Government Bonds, Local Government Bonds or other securities which the Director General of Customs finds to be secure.

(5) Necessary matters concerning procedures required by the Director General of Customs with respect to the deposit provided pursuant to the order prescribed in paragraph (3) are prescribed by Cabinet Order.

(6) If, pursuant to the provisions of Cabinet Order, the requester has entered into a contract providing that the amount necessary to compensate for damages as provided for in paragraph (3) shall be paid on the requester's behalf and has notified the Director General of Customs of that fact within the time limit specified under that paragraph, then the requester may not deposit the whole or part of the amount referred to in that paragraph while the contract remains in effect.

(7) The applicant referred to in paragraph (3) has the right, with respect to the applicant's right to claim for damages provided for in that paragraph against the requester, to be paid in advance of any other creditors from the monetary deposit provided pursuant to the provisions of that paragraph (the monetary deposit includes securities prescribed in paragraph (4); the same applies in paragraphs (9) to (11)).

(8) Necessary matters concerning the exercise of right referred to in the preceding paragraph are prescribed by Cabinet Order.

(9) A requester who has provided the monetary deposit pursuant to the provisions of paragraph (3) may recover the deposit if the situation falls under any of the cases as set forth in the following items:

(i) if it has been proved to, and confirmed by the Director General of Customs that the applicant referred to in paragraph (12) has consented to the recovery of the deposit, that the right to claim for compensation for damages as provided for in paragraph (3) has been extinguished by prescription or otherwise that the deposit for compensation for damages as provided for in paragraph (3) is no longer necessary;

(ii) if the contract referred to in paragraph (6) has been entered into and approved by the Director General of Customs pursuant to the provisions of Cabinet Order;

(iii) if, pursuant to the provisions of Cabinet Order, the Director General of Customs has approved provision of another deposit in lieu of the deposit actually provided, on the grounds of redemption of the deposited securities or on other grounds;

(iv) in addition to the situations set forth in the preceding three items, if the applicant referred to in paragraph (12) fails to institute, within thirty days from the date on which the applicant receives the notification prescribed in that paragraph, the judicial action

for claiming for damages as provided for in paragraph (3).

(10) Necessary matters concerning recovery of the monetary deposit prescribed in the preceding paragraph are prescribed by the Ministry of Justice Order and the Ministry of Finance Order.

(11) If a person who has been ordered to deposit pursuant to the provisions of paragraph (3) deposits, within the period specified under that paragraph, the whole amount so ordered or notifies the Director General of Customs of entering into a contract prescribed in paragraph (6), the Director General of Customs is to discontinue the verification procedures for the goods which have caused the deposit to be ordered.

(12) When the Director General of Customs has discontinued the verification procedures pursuant to the provisions of the preceding paragraph, the Director General of Customs shall notify that fact to a person who seeks to export the goods subject to the verification procedures and the applicant who has filed an application pertaining to the verification procedures.

Subsection 2 Goods the Importation of which is Prohibited

(Goods the importation of which is prohibited)

Article 69-11. Goods set forth in the following shall not be imported:

(i) narcotic drugs, psychotropic substances, cannabis, opium, opium poppies, stimulants (including raw materials thereof as referred to in the Stimulant Drugs Control Act) and utensils for opium smoking; provided, however, that those imported by the Government or by a person authorized, under other laws and regulations, to import pursuant to the provisions thereof, are excluded;

(i)-2 the designated drugs provided for in paragraph (15) of Article 2 (Definitions) of the Act for Ensuring the Quality, Efficacy and Safety of Drugs and Medical Devices (Act No. 145 of 1960) (excluding those imported for the purpose of using for medical care, etc. as provided for in Article 76-4 (Prohibition of manufacture, etc.) of that Act);

(ii) hand-guns, rifles, machine guns, cannons, and bullets thereof and parts of hand-guns; provided, however, that those imported by a person authorized, under other laws and regulations, to import pursuant to the provisions thereof, are excluded;

(iii) explosives (i.e., explosives provided for in Article 1 of the Criminal Regulations to Control Explosives (Ordinance No. 32 of the Administrative Council of 1884); excluding those set forth in items (ii) and (iv)); provided, however, that those imported by a person authorized, under other laws and regulations, to import pursuant to the provisions thereof, are excluded;

(iv) explosive powder (i.e., explosive powder provided for in paragraph (1) of Article 2 (Definitions) of the Explosives Control Act (Act No. 149 of 1950); excluding goods that fall under item (ii)); provided, however, that explosive powder imported by a person authorized, under other laws and regulations, to import pursuant to the provisions thereof, are excluded;

(v) specific substances provided for in paragraph (3) of Article 2 (Definitions, etc.) of the Act on the Prohibition of Chemical Weapons and the Control of Specific Chemicals (Act No. 65 of 1995); provided, however, that those imported by a person authorized, under international conventions or other laws and regulations, to import pursuant to the provisions thereof, are excluded;

(v)-2 pathogens, etc. of Class One and Class Two as referred to respectively in paragraph (20) and paragraph (21) of Article 6 (Definitions, etc.) of the Act on the Prevention of Infections and Medical Care for Patients with Infections (Act No. 114 of 1998); provided, however, that those imported by a person authorized, under other laws and regulations, to import pursuant to the provisions thereof, are excluded;

(vi) forged, altered or counterfeit coins, bills, bank notes, revenue stamps or postal stamps, securities and cards (including vouchers with marks representing postage, other than postal stamps (the same applies in this item)) (excluding counterfeit revenue stamps imported with the authorization of the Minister of Finance under paragraph (2) of Article 1 of the Act on the Control of Counterfeiting of Stamps, etc. (Act No. 189 of 1947) and counterfeit postal stamps imported with the authorization of the Minister of Internal Affairs and Communications under paragraph (2) of Article 1 of the Act on the Control of the Counterfeiting of Postal Stamps etc. (Act No. 50 of 1972)) and the cards (including materials used in the production of such cards) that are created unlawfully for the payment of charges or fees or for the withdrawal of depositions and that contain electromagnetic records;

(vii) books, drawings, carvings or other articles that are detrimental to public security or that corrupt public morals, other than those falling under the next item;

(viii) child pornography (i.e., child pornography referred to in paragraph (3) of Article 2 (Definitions) of the Act on the Regulation and Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children;

(ix) goods that infringe patent rights, utility model rights, design rights, trademark rights, copyrights, copyright neighboring rights, layout-design exploitation rights or breeder's rights;

(x) goods that compose the acts set forth in any of items (i) to (iii) and (x), (xvii) and (xviii) of paragraph (1) of Article 2 (Definitions) of the Unfair Competition Prevention

Act (excluding acts specified in any of items (i) to (v), (vii) and (ix) of paragraph (1) of Article 19 (Exclusion from application, etc.) of that Act for the category of unfair competitions as set forth respectively in any of items (i) to (iii) and (x), (xvii) and (xviii) of paragraph (1) of Article 2 of that Act).

(2) The Director General of Customs may confiscate and dispose of goods set forth in any of items (i) to (vi), (ix) and (x) of the preceding paragraph and sought to be imported or may order a person who seeks to import the goods to reship them.

(3) If the Director General of Customs has reasonable grounds to believe that goods sought to be imported pursuant to the provisions of this Chapter contain goods that may fall under those set forth in item (vii) or (viii) of paragraph (1), the Director General of Customs shall notify that fact to a person who seeks to import the goods.

(Verification procedures pertaining to goods the importation of which is prohibited)

Article 69-12. If the Director General of Customs considers that goods sought to be imported pursuant to the provisions of this Chapter contain those that may fall under goods set forth in item (ix) or (x) of paragraph (1) of the preceding Article, the Director General of Customs shall, pursuant to the provisions of Cabinet Order, initiate procedures for verifying whether the goods fall under those set forth in these items (hereinafter the procedures identified in this paragraph are referred to as “verification procedures” in this Subsection). In this case, the Director General of Customs shall, pursuant to the provisions of Cabinet Order, notify a patentholder or other right holder relating to the goods and a person who seeks to import the goods of the fact that verification procedures are to be initiated for the goods and that the patentholder or other right holder and the importer may produce evidence and state their opinions as to whether they fall under those set forth in item (ix) or (x) of paragraph

(1) of the preceding Article and other matters prescribed by Cabinet Order (“patentholder or other right holder” as used in this Article means a holder of a patent right, utility model right, design right, trademark right, copyright, copyright neighboring right, layout-design exploitation right or breeder’s right, or a person who has the right to seek an injunction against unfair competition (i.e., a person who, pursuant to the provisions of paragraph (1) of Article 3 (Right to seek an injunction) of the Unfair Competition Prevention Act, may seek suspension or prevention of infringement of the business interests the infringement of which has been caused by the acts specified in item (x) of paragraph (1) of the preceding Article with respect to goods set forth in that item; hereinafter the same applies in this Subsection).

(2) When the Director General of Customs issues a notification prescribed in the

preceding paragraph, the Director General of Customs also notifies a patentholder or other right holder relating to the goods at issue of the names and addresses of a person who seeks to import the goods and their consignor and also notifies a person who seeks to import the goods of the name and address of the patentholder or other right holder concerned.

(3) If the Director General of Customs finds that the name or address of a manufacturer of the goods subject to verification procedures is evident from a written import declaration or other documents relating to importation of these goods, submitted to the Director General of Customs in accordance with the provisions of Article 67 (Export or import permission), from other documents submitted to the Director General of Customs in connection with the verification procedures or from indications affixed to the goods, the Director General of Customs notifies the patentholder or other right holder relating to the goods of the name or address of the manufacturer. Such notification may occur simultaneously with the notification referred to in paragraph (1), or it may occur thereafter, provided that it occurs within the period during which the verification procedures are carried out.

(4) If a person who seeks to import goods has been notified under paragraph (1), as provided for in that paragraph, asserts that the goods subject to verification procedures (hereinafter referred to as “suspect goods” in this Article and Article 69-16 (Inspection of samples of suspect goods by applicants)) do not fall under those set forth in items (ix) to (x) of paragraph (1) of the preceding Article, the Director General of Customs may request that person to submit documents substantiating the assertion and other documents specified by Cabinet Order.

(5) The Director General of Customs may not take any of the measures referred to in paragraph (2) of the preceding Article with respect to goods sought to be imported pursuant to the provisions of this Chapter unless the goods have undergone verification procedures.

(6) If the Director General of Customs has verified as to whether suspect goods do or do not fall under those set forth in items (ix) to (x) of paragraph (1) of the preceding Article, the Director General of Customs shall notify the patentholder or other right holder relating to the verified goods and the person who seeks to import the goods of the findings and the reason therefor; provided, however, that this does not apply to the case where a notification prescribed in the next paragraph is issued.

(7) If the situation falls under any of the following items before the notification of verification for suspect goods is issued under the main clause of the preceding paragraph, the Director General of Customs notifies the patentholder or other right

holder relating to the suspect goods of that fact and discontinues the verification procedures:

- (i) if the suspect goods have been disposed of pursuant to the provisions of Article 34 (Disposal of foreign goods);
- (ii) if the suspect goods have been destroyed pursuant to the provisions of the proviso to paragraph (1) of Article 45 (Liability, etc. for payment of customs duty of a person who has obtained permission) (including the case where applied mutatis mutandis pursuant to Articles 36, 41-3, 61-4, 62-7 and 62-15);
- (iii) if the suspect goods have been reshipped pursuant to the provisions of Article 75 (Reshipment of foreign goods);
- (iv) in addition to the situations set forth in the preceding three items, if the suspect goods have ceased to be imported.

(7) A person who has received the notification prescribed in paragraph (2) or (3) or an applicant provided for in paragraph (2) of Article 69-16 who has obtained the approval pursuant to the provisions of that paragraph shall not divulge any matters to have been notified or any other matters to have learned during the inspection (including inspection by disassembling; the same applies in Article 69-16) or handling of a sample pertaining to the application to any other person without reason, nor shall use such matters for any unjust purpose.

(8) A person who has received the notification prescribed in paragraph (2) or (3) or an applicant provided for in paragraph (2) of Article 69-16 who has obtained the approval pursuant to the provisions of that paragraph shall not divulge any matters to have been notified or any other matters to have learned during the inspection (including inspection by disassembling; the same applies in Article 69-16) or handling of a sample pertaining to the application to any other person without reason, nor shall use such matters for any unjust purpose.

(Procedures for application pertaining to goods the importation of which is prohibited)

Article 69-13. A holder of a patent right, utility model right, design right, trademark right, copyright, copyright neighboring right, plant breeder's right or a person who has the right to seek an injunction against unfair competition may, pursuant to the provisions of Cabinet Order, produce to any of the Directors General of Customs evidence necessary to demonstrate prima facie infringement with respect to goods which, the holder believes, infringe the patent right, utility model right, design right, trademark right, copyright, copyright neighboring right, plant breeder's right or business interests, and may file with the Director General of Customs an application for

verification procedures to be initiated by that or other Director General of Customs if they are to be imported in accordance with the provisions of this Chapter (hereinafter in this Article and in the next Article, the Director General of Customs with whom the application is filed is referred to as “the Director General of Customs with whom application is filed”). In this case, a person who has the right to seek an injunction against unfair competition shall, pursuant to the provisions of the Ministry of Economy, Trade and Industry Order, seek from the Minister of that Ministry, in the case where the goods are those set forth in item (x) of paragraph (1) of Article 69-11 (Goods the importation of which is prohibited) (excluding those pertaining to item (x) of paragraph (1) of Article 2 (Definitions) of the Unfair Competition Prevention Act), the opinion with respect to the matters specified by that Order, which may stipulate, among other things, that the indication of goods, etc. provided for in item (i) of paragraph (1) of Article 2 of that Act and related to that person be well known among consumers, or in the case where the goods are those set forth in item (x) of paragraph (1) of Article 69-11 (limited to those pertaining to item (x) of paragraph (1) of Article 2 of that Act), the certification with respect to the fact that the goods in question are those obtained by the acts of improper use as provided for in item (x) of paragraph (1) of Article 2 of that Act and that a person who is likely to import the goods was, at the time when they were transferred to that person, aware that they were obtained by these acts and that the person was grossly negligent in failing to know that they were so obtained, and shall submit the details of the opinion or certification in writing to the Director General of Customs with whom application is filed.

(2) The Director General of Customs with whom application is filed may not accept the application prescribed in the preceding paragraph if the evidence is found to be insufficient to demonstrate prima facie infringement pertaining to the application.

(3) In the case where the application prescribed in paragraph (1) is filed, if the Director General of Customs with whom application is filed accepts the application, that fact and the effective period of the application (i.e., the period during which verification procedures is, based on that application, to be carried out each time goods pertaining to that application are found among those goods to be imported during the period in accordance with the provisions of this Chapter) shall be notified to the person who has filed the application, whereas if the Director General of Customs with whom application is filed does not accept the application pursuant to the provisions of the preceding paragraph, that fact and the reason therefor shall be notified to that person.

(4) When the Director General of Customs has accepted the application prescribed in paragraph (1) or the application has been accepted by any other Director General of

Customs, if verification procedures has been initiated for goods pertaining to the application, the Director General of Customs shall, pursuant to the provisions of Cabinet Order, provide, upon request, a person who has filed the application or a person who seeks to import the goods with an opportunity to inspect the goods; provided, however, that this does not apply to the case where verification procedures has been discontinued pursuant to the provisions of paragraph (7) of the preceding Article.

(Seeking opinions of technical advisers with respect to application for import suspension)

Article 69-14. When an application prescribed in paragraph (1) of the preceding Article has been filed, the Director General of Customs with whom application is filed, if it is found necessary, may designate persons with academic background and experience in intellectual property rights, having no special interests with the parties involved in the cases pertaining to the application, to serve as technical advisers and may seek, pursuant to the provisions of Cabinet Order, the opinions of the technical advisers as to whether the evidence produced pursuant to the provisions of that paragraph is sufficient to demonstrate prima facie infringement pertaining to the application; provided, however, that this does not apply to the matters with respect to which the opinion or certification of the Minister of Economy, Trade and Industry is to be sought pursuant to the provisions of the second sentence of that paragraph.

(Deposit, etc. pertaining to application for import suspension)

Article 69-15. When the Director General of Customs has accepted the application prescribed in paragraph (1) of Article 69-13 (Procedures for application, etc. pertaining to goods the importation of which is prohibited) or the application has been accepted by any other Director General of Customs, if it is found necessary for ensuring compensation for damages that a person who seeks to import goods pertaining the application is likely to incur from being unable to import until completion of the verification procedures for the goods, the Director General of Customs may order a person who has filed the application (hereinafter in this Article referred to as “applicant”) to provide, within a specified period, a monetary deposit in an amount deemed to be sufficient to cover the damages with the designated deposit office.

(2) If the amount of the monetary deposit provided pursuant to the provisions of the preceding paragraph is found insufficient to compensate for the damages provided for in

that paragraph, the Director General of Customs may order the applicant to provide, within a specified period, a monetary deposit in an amount deemed to be equivalent to the shortfall.

(3) The monetary deposit to be provided pursuant to the provisions of the preceding two paragraphs may be replaced by National Government Bonds, Local Government Bonds or other securities which the Director General of Customs finds to be secure (other securities include book-entry transfer bonds as provided for in paragraph (1) of Article 278 (Deposit of transferred bonds) of the Act on Book-Entry Transfer of Corporate Bonds, Shares, etc.; the same applies in this Article and in Article 69-20 (Request for discontinuance of verification procedures pertaining to goods the importation of which is prohibited, etc.)).

(4) Necessary matters concerning procedures required by the Director General of Customs with respect to the deposit provided pursuant to the order prescribed in paragraph (1) or (2) are prescribed by Cabinet Order.

(5) If, pursuant to the provisions of Cabinet Order, an applicant enters into a contract which provides that the amount necessary to compensate for the damages provided for in paragraph (1) is paid on the applicant's behalf and notifies the Director General of Customs of that fact within the time limit specified in paragraph (1) or (2), the applicant may not deposit the whole or part of the amount referred to in paragraph (1) or (2) while the contract remains in effect.

(6) The importer of goods referred to in paragraph (1) has the right, with respect to the claim for damages against an applicant as provided for in that paragraph, to be paid, in advance of any other creditors, from the monetary deposit provided pursuant to the provisions of paragraphs (1) and (2) (the monetary deposit includes securities referred to in paragraph (3); the same applies in paragraphs (8) to (10)).

(7) Necessary matters concerning the exercise of right referred to in the preceding paragraph are prescribed by Cabinet Order.

(8) An applicant who has provided the monetary deposit pursuant to the provisions of paragraph (1) or (2) may recover the deposit if any of the situations as set forth in the following items occurs:

(i) if the applicant has received a notification prescribed in the main clause of paragraph (6) of Article 69-12 (Verification procedures pertaining to goods the importation of which is prohibited), stating that goods which have caused the deposit to be provided fall under those set forth in items (ix) to (x) of paragraph (1) of Article 69-11 (Goods the importation of which is prohibited);

(ii) if the applicant has received a notification prescribed in paragraph (7) of Article

69-12 with respect to goods which have caused the deposit to be provided; (iii) if it has been proved to, and confirmed by the Director General of Customs that the importer of goods referred to in paragraph (1) has consented to the recovery of the monetary deposit, that the right to claim for compensation for damages as provided for in that paragraph has been extinguished by prescription or otherwise that the deposit for compensation for damages as provided for in that paragraph is no longer necessary;

(iv) if the applicant has entered into a contract referred to in paragraph (5) and the contract has been approved by the Director General of Customs pursuant to the provisions of Cabinet Order;

(v) if, pursuant to the provisions of Cabinet Order, it has been approved by the Director General of Customs to provide another deposit, in lieu of the deposit actually provided, on the grounds of redemption of the deposited securities or for other reason.

(9) Necessary matters concerning recovery of the monetary deposit provided for in the preceding paragraph are prescribed by the Ministry of Justice Order and the Ministry of Finance Order.

(10) If a person who has been ordered to deposit pursuant to the provisions of paragraph (1) or (2) fails to deposit the whole amount within the time limit specified pursuant to the provisions of these paragraphs and also fails to notify the person's entering into a contract prescribed in paragraph (5), the Director General of Customs may discontinue verification procedures for goods which have caused the deposit to be provided.

(11) If the verification procedures have been discontinued pursuant to the provisions of the preceding paragraph, the Director General of Customs shall notify that fact to a person who has filed an application pertaining to the verification procedures and a person who seeks to import goods subject to the procedures.

(Inspection of samples of suspect goods by applicants)

Article 69-16. A holder of a patent right, utility model right, design right, trademark right, copyright, copyright neighboring right or breeder's right, or a person who has the right to seek an injunction against unfair competition, whose application prescribed in paragraph (1) of Article 69-13 (Procedures for application, etc. pertaining to goods the importation of which is prohibited) has been accepted, may file with the Director General of Customs an application for approval for inspection of a sample of suspect goods subject to the verification procedures, provided that the application for approval is filed while the verification procedures for the goods are carried out. In this case, the Director General of Customs, upon receipt of the application, shall notify a person who seeks to import the suspect goods of that fact.

(2) If all of the requirements set forth in the following items are met, the Director General of Customs is to give, in response to an application filed under the preceding paragraph, approval for inspection of the sample of suspect goods subject to the verification procedures to a person who has filed the application (including a person assigned to conduct the inspection; hereinafter in this Article (excluding paragraph (5)) referred to as “applicant”); provided, however, that this does not apply to the case where it is evident that goods relating to the application do or do not fall under those set forth in item (ix) of paragraph (1) of Article 69-11 (Goods the importation of which is prohibited) (goods that infringe a layout-design exploitation right are excluded; the same applies in this paragraph and paragraph (5)), or item (ix)-2 or (x) of paragraph (1) of that Article, or otherwise where the Director General of Customs finds that the approval is not necessary to be given:

(i) that the inspection of sample is found necessary in order to produce evidence or state the opinion to the Director General of Customs to substantiate that the suspect goods relating to the sample fall under those as set forth in item (ix) of paragraph (1) of Article 69-11 or item (ix)-2 or (x) of that paragraph;

(ii) that it is found that the interests of a person who seeks to import suspect goods relating to the sample are not likely to be unjustly infringed;

(iii) that, in addition to the requirements set forth in the preceding items, it is found that the sample is not likely to be used for unjust purposes;

(iv) that the applicant is found to have the ability and financial resources necessary to properly carry out transport, storage, inspection or other handling, of the sample.

(3) If the Director General of Customs approves inspection of a sample by an applicant pursuant to the provisions of the preceding paragraph, the Director General of Customs shall notify that fact to the applicant (excluding a person assigned to conduct the inspection) and the person who seeks to import the suspect goods relating to the sample.

(4) If the approval is given by the Director General of Customs pursuant to the provisions of paragraph (2), expenses necessary for transport, storage or inspection of the sample and other expenses shall be borne by the applicant to the extent necessary for inspection of the sample.

(5) The preceding Article (excluding paragraph (11)) applies *mutatis mutandis* to the case where the Director General of Customs gives approval pursuant to the provisions of paragraph (2). In this case, the terms reproduced in the middle columns of the following table, which are used in the paragraphs of the left columns are replaced respectively with the terms shown in the right columns:

provisions	terms to be replaced	terms to replace
paragraph (1) of Article 69-15	from being unable to import until completion of the verification procedures for the goods,	in cases where the suspect goods pertaining to the sample have been verified not to fall under the goods set forth in item (ix) or (x) of paragraph (1) of Article 69-11,
	a person who has filed the application (hereinafter in this Article referred to as “applicant”	a person who has made application for approval (hereinafter in this Article referred to as “applicant”
paragraphs (2), (5), (6) and (8) of Article 69-15	applicant	applicant
paragraph (10) of Article 69-15	discontinue verification procedures	not give approval referred to in paragraph (2) of the next Article

(6) If inspection of a sample is conducted by the applicant who has been given approval pursuant to the provisions of paragraph (2), customs officials shall attend the inspection. In this case, a person who seeks to import the suspect goods relating to the sample may, upon request to the Director General of Customs, attend the inspection.

(7) In addition to the matters provided for in the preceding paragraphs, necessary matters concerning procedures required for application referred to in paragraph (1), expenses to be borne under paragraph (4) and other matters concerning inspection of a sample by an applicant are prescribed by Cabinet Order.

(Seeking opinions pertaining to goods the importation of which is prohibited, etc.)

Article 69-17. If verification procedures have been initiated to determine whether goods do or do not fall under those that infringe a patent right, utility model right, design right or those that compose the acts set forth in item (x) of paragraph (1) of Article 2 (Definitions) of the Unfair Competition Prevention Act (excluding the acts provided for in item (vii) of paragraph (1) of Article 19 (Exclusion from application, etc.) of that Act; hereinafter the same applies in this paragraph and paragraph (9)), a patentholder or other right holder relating to these goods (i.e., a holder of patent right, utility model right or design right, or a person who has the right to seek an injunction against unfair competition (limited to a person relating to goods that compose the acts set forth in item (x) of paragraph (1) of Article 2 of that Act; hereinafter the same applies in this paragraph, paragraph (9) and paragraph (1) of Article 69-20 (Request for discontinuance of verification procedures pertaining to goods the importation of which is prohibited, etc.); hereinafter the same applies in this Article) or an importer relating to these goods (i.e., a person who seeks to import goods subject to the verification

procedures; hereinafter the same applies in this Article) may, pursuant to the provisions of Cabinet Order, request the Director General of Customs to seek, in the case where verification procedures have been initiated to determine whether goods subject to the procedures do or do not fall under those that infringe the patent right, utility model right or design right of the patentholder or other right holder (excluding a person who has the right to seek an injunction against unfair competition), the opinion of the Commissioner of the Patent Office with respect to the technical scope, etc., or in the case where verification procedures have been initiated to determine whether goods subject to the procedures do or do not fall under those that compose the acts set forth in item (x) of paragraph (1) of Article 2 of the Unfair Competition Prevention Act and related to the patentholder or other right holder (limited to a person who has the right to seek an injunction against unfair competition), the opinion of the Minister of Economy, Trade and Industry as to whether the goods subject to the verification procedures fall under those that compose the acts set forth in that item, provided that the request is made within the period during which the verification procedures are carried out, but before the day on which ten days (public holidays of the administrative organs are not included) elapse from the day on which the patentholder or other right holder receives the notification prescribed in paragraph (1) of Article 69-12 (Verification procedures pertaining to goods the importation of which is prohibited) (hereinafter in this paragraph and paragraph (2) of Article 69-20 (Request for discontinuance of verification procedures pertaining to goods the importation of which is prohibited, etc.) referred to as “the date of notification”) (in paragraphs (1) and (2) of Article 69-20, the day on which ten days elapse is referred to as “the day on which ten days elapse”) (if the Director General of Customs, before expiry of the period of ten days, finds it necessary to extend the period in consideration of the progress made with respect to the verification procedures and other circumstances and notifies the patentholder or other right holder and the importer of the findings, the period may be extended until the day on which twenty days (public holidays of the administrative organs are not included) elapse from the date of notification (in paragraph (1) of Article 69-20, the day on which twenty days elapse from the date of notification is referred to as “the day on which twenty days elapse”)) (“technical scope, etc.” as used in this paragraph means the technical scope provided for in paragraph (1) of Article 70 (Technical scope of patented invention) of the Patent Act (including the case where applied *mutatis mutandis* pursuant to Article 26 (*Mutatis mutandis* application of the Patent Act) of the Utility Model Act), or the scope provided for in paragraph (1) of Article 25 (Scope of registered design, etc.) of the Design Act (the same applies in paragraph (9) and Article 69-19 (Seeking opinions of technical

advisers in verification procedures pertaining to goods the importation of which is prohibited))).

(2) If a request prescribed in the preceding paragraph has been made, the Director General of Customs is to seek, pursuant to the provisions of Cabinet Order, the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office; provided, however, that this does not apply to the case where the Director General of Customs finds it evident that goods relating to the request as prescribed in that paragraph do or do not fall under those set forth in items (ix) to (x) of paragraph (1) of Article 69-11 (Goods the importation of which is prohibited) or otherwise where the Director General of Customs finds it unnecessary to seek the opinion of the Minister or the Commissioner.

(3) When a request prescribed in paragraph (1) has been made, if the Director General of Customs has not sought the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office pursuant to the provisions of the proviso to the preceding paragraph, the Director General of Customs shall notify the patentholder or other right holder or the importer who has made the request prescribed in paragraph (1) of that fact and the reason therefor.

(4) When the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office has been sought an opinion by the Director General of Customs pursuant to the provisions of the main clause of paragraph (2), the Minister or Commissioner shall provide the opinion in writing within thirty days from the day on which the opinion is sought.

(5) When the Director General of Customs has sought the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office pursuant to the provisions of the main clause of paragraph (2), the Director General of Customs shall notify the patentholder or other right holder and the importer concerned of that fact.

(6) When the opinion prescribed in paragraph (4) has been provided, the Director General of Customs shall notify the patentholder or other right holder and the importer concerned of that fact and the details of the opinion.

(7) When the Director General of Customs has sought the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office pursuant to the provisions of the main clause of paragraph (2), the Director General of Customs shall not determine, before the opinion prescribed in paragraph (4) is provided, that, where a person who has made the request referred to in paragraph (1) is a patentholder or other right holder, the goods at issue do not fall under those set forth in items (ix) to (x) of paragraph (1) of Article 69-11, or where a person who has made the request referred to

in paragraph (1) is an importer, the goods at issue fall under those set forth in items (ix) to (x) of paragraph (1) of that Article.

(8) When the Director General of Customs has sought the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office pursuant to the provisions of the main clause of paragraph (2), if, before the opinion prescribed in paragraph (4) is provided, the Director General of Customs has determined that, where a person who has made the request referred to in paragraph (1) is a patentholder or other right holder, the goods at issue fall under those set forth in items (ix) to (x) of paragraph (1) of Article 69-11 or that, where a person who has made the request referred to in paragraph (1) is an importer, the goods at issue do not fall under those set forth in items (ix) to (x) of paragraph (1) of that Article, or if the Director General of Customs has discontinued verification procedures with respect to the goods at issue pursuant to the provisions of paragraph (7) of Article 69-12 or paragraph (10) of Article 69-15 (Deposit, etc. relating to application for import suspension), the Director General of Customs shall notify the Minister or the Commissioner of that fact. In this case, the Minister or the Commissioner is not required to provide the opinion prescribed in paragraph (4). (9) In the verification procedures for determining whether goods fall under those that infringe a patent right, utility model right or design right or fall under those that compose the acts set forth in item (x) of paragraph (1) of Article 2 of the Unfair Competition Prevention Act, the Director General of Customs may, if it is found necessary for the purpose of verification prescribed in paragraph (1) of Article 69-12, seek, pursuant to the provisions of Cabinet Order, where the verification procedures have been initiated to determine whether goods fall under those that infringe the patent right, utility model right or design right of a patentholder or other right holder, the opinion of the Commissioner of the Patent Office with respect to the technical scope, etc. as to whether the goods subject to the verification procedures fall under those that infringe the patent right, utility model right or design right of the patentholder or other right holder concerned (excluding a person who has the right to seek an injunction against unfair competition), or where the verification procedures have been initiated to determine whether goods fall under those that compose the acts set forth in that item, the opinion of the Minister of Economy, Trade and Industry as to whether the goods at issue fall under those that compose the acts set forth in that item, relating to the patentholder or other right holder (limited to a person who has the right to seek an injunction against unfair competition).

(10) Paragraphs (4) to (6) of this Article and paragraph (5) of the next Article apply *mutatis mutandis* to the case where an opinion is sought pursuant to the provisions of

the preceding paragraph. In this case, necessary technical replacement of the terms is prescribed by Cabinet Order.

(Seeking opinions of the Minister of Agriculture, Forestry and Fisheries, etc. in verification procedures pertaining to goods the importation of which is prohibited)

Article 69-18. In the verification procedures for determining whether goods do or do not fall under those that infringe a breeder's right or those set forth in item (x) of paragraph (1) of Article 69-11 (Goods the importation of which is prohibited) (excluding those pertaining to item (x) of paragraph (1) of Article 2 (Definitions) of the Unfair Competition Prevention Act; the same applies in this paragraph and paragraph (5)), if it is found necessary for the purpose of verification prescribed in paragraph (1) of Article 69-12 (Verification procedures pertaining to goods the importation of which is prohibited), the Director General of Customs may, pursuant to the provisions of Cabinet Order, seek for reference purposes the opinion of the Minister of Agriculture, Forestry and Fisheries in the case of verification procedures pertaining to goods that may infringe a breeder's right or the opinion of the Minister of Economy, Trade and Industry in the case of verification procedures pertaining to goods that may fall under those set forth in item (x) of paragraph (1) of Article 69-11.

(2) When an opinion has been sought by the Director General of Customs pursuant to the provisions of the preceding paragraph, the Minister of Agriculture, Forestry and Fisheries or the Minister of Economy, Trade and Industry shall provide the opinion in writing within thirty days from the date on which the opinion is sought.

(3) When the Director General of Customs has sought the opinion pursuant to the provisions of paragraph (1), the Director General of Customs shall notify that fact to a holder of breeder's right or a person who has the right to seek an injunction against unfair competition, involved in the verification procedures and also to a person who seeks to import goods subject to the verification procedures.

(4) When the opinion prescribed in paragraph (2) has been provided, the Director General of Customs shall notify that fact and the details of the opinion to a holder of breeder's right or a person who has the right to seek an injunction against unfair competition, as the case may be and to a person who seeks to import goods subject to the verification procedures, as referred to in the preceding paragraph.

(5) When the Director General of Customs has sought the opinion of the Minister of Agriculture, Forestry and Fisheries or the Minister of Economy, Trade and Industry pursuant to the provisions of paragraph (1), if the Director General of Customs has determined, before the opinion prescribed in paragraph (2) is provided, that the goods at

issue do or do not fall under those that infringe a breeder's right or those set forth in item (x) of paragraph (1) of Article 69-11 or if the Director General of Customs has discontinued verification procedures for the goods pursuant to the provisions of paragraph (7) of Article 69-12 or paragraph (10) of Article 69-15 (Deposit, etc. relating to application for import suspension), the Director General of Customs is to notify the Minister of Agriculture, Forestry and Fisheries or the Minister of Economy, Trade and Industry, as the case may be, of that fact. In this case, the Minister concerned is not required to provide the opinion prescribed in paragraph (2).

(Seeking opinions of technical advisers in verification procedures pertaining to goods the importation of which is prohibited)

Article 69-19. In the verification procedures for determining whether goods do or do not fall under those set forth in item (ix) of paragraph (1) of Article 69-11 (Goods the importation of which is prohibited) (excluding goods that infringe a breeder's right) or those set forth in item (ix)-2 of that paragraph, the Director General of Customs may, if it is found necessary for the purpose of verification prescribed in paragraph (1) of Article 69-12 (Verification procedures pertaining to goods the importation of which is prohibited), designate persons with academic background and experience in intellectual property rights, having no special interests with the parties involved in the cases pertaining to the verification procedures, to serve as technical advisers, and may, pursuant to the provisions of Cabinet Order, seek opinions of the technical advisers for reference purposes; provided, however, that this does not apply to the technical scope, etc.

(Request for discontinuance of verification procedures pertaining to goods the importation of which is prohibited)

Article 69-20. If verification procedures have been initiated for goods relating to the application prescribed in paragraph (1) of Article 69-13 (Procedures for application relating to goods the importation of which is prohibited, etc.) which has been filed by a holder of patent right, utility model right, design right or a person who has the right to seek an injunction against unfair competition and has been accepted (hereinafter in this Article a right holder whose application has been accepted is referred to as "applicant"), a person who seeks to import the goods may, after the day as specified in each of the following items for the category of cases as set forth respectively therein, request the Director General of Customs to discontinue the verification procedures pursuant to the

provisions of Cabinet Order, provided that the request is made while the verification procedures are carried out:

(i) if it is notified that the period until the day on which ten days elapse is extended pursuant to the provisions of paragraph (1) of Article 69-17 (Seeking the opinion concerning goods the importation of which is prohibited, etc.): the day on which twenty days elapse (or, if a notification stating that the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office has been sought pursuant to the provisions of paragraph (5) of Article 69-17 (including the case where applied *mutatis mutandis* pursuant to paragraph (10) of Article 69-17; the same applies in the next item) has been received, the day on which twenty days elapse or the day on which ten days elapse from the date of receipt of the notification prescribed in paragraph (6) of Article 69-17, relating to seeking the opinion (including the case where applied *mutatis mutandis* pursuant to paragraph (10) of Article 69-17; the same applies in the next item), whichever comes later);

(ii) in the case other than the case set forth in the preceding item: the day on which ten days elapse (or, if a notification stating that the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office has been sought pursuant to the provisions of paragraph (5) of Article 69-17 has been received, the day on which ten days elapse or the day on which ten days elapse from the date of receipt of the notification prescribed in paragraph (6) of Article 69-17, relating to seeking the opinion, whichever comes later).

(2) When the Director General of Customs has initiated verification procedures for the goods relating to the application of the applicant, the Director General of Customs shall, before the day on which ten days elapse, notify a person who seeks to import the goods of the date of notification.

(3) If discontinuance of verification procedures has been requested pursuant to the provisions of paragraph (1), the Director General of Customs shall notify that fact to the applicant who has filed an application pertaining to the verification procedures and order a person who has so requested (hereinafter in this Article referred to as “requester”) to provide, within a specified period, a monetary deposit with the designated deposit office in an amount deemed to be sufficient to cover the damages that may be incurred by the applicant from importation of the goods subject to the verification procedures.

(4) The monetary deposit to be provided pursuant to the provisions of the preceding paragraph may be replaced by National Government Bonds, Local Government Bonds or other securities which the Director General of Customs finds to be secure.

(5) Necessary matters concerning procedures required by the Director General of Customs with respect to the deposit provided pursuant to the order prescribed in paragraph (3) are prescribed by Cabinet Order.

(6) If, pursuant to the provisions of Cabinet Order, the requester has entered into a contract providing that the amount necessary to compensate for damages as provided for in paragraph (3) shall be paid on the requester's behalf and has notified the Director General of Customs of that fact within the period specified under that paragraph, the requester may not deposit the whole or part of the amount referred to in that paragraph while the contract remains in effect.

(7) The applicant referred to in paragraph (3) has the right, with respect to the right to claim for compensation for damages against the requester as provided for in that paragraph, to be paid in advance of any other creditors, from the monetary deposit provided pursuant to the provisions of that paragraph (the deposit includes securities prescribed in paragraph (4); the same applies in paragraphs (9) to (11)).

(8) Necessary matters concerning the exercise of right referred to in the preceding paragraph are prescribed by Cabinet Order.

(9) The requester who has provided the monetary deposit pursuant to the provisions of paragraph (3) may recover the monetary deposit if the situation falls under any of the cases as set forth in the following items:

(i) if it has been proved to, and confirmed by the Director General of Customs that the applicant referred to in paragraph (12) has consented to the recovery of monetary deposit, that the right to claim for compensation for damages as provided for in paragraph (3) has been extinguished by prescription or otherwise that the deposit for compensation for damages provided for in paragraph (3) is no longer necessary;

(ii) if the contract referred to in paragraph (6) has been entered into and has been approved by the Director General of Customs pursuant to the provisions of Cabinet Order;

(iii) if, pursuant to the provisions of Cabinet Order, it has been approved by the Director General of Customs to provide another deposit, in lieu of the deposit actually provided, on the grounds of redemption of the deposited securities or for other reason;

(iv) in addition to the situations set forth in the preceding three items, if the applicant referred to in paragraph (12) fails to institute, within thirty days from the date on which the applicant receives the notification prescribed in that paragraph, any judicial action for claiming for damages as provided for in paragraph (3).

(10) Necessary matters concerning the recovery of monetary deposit as prescribed in the preceding paragraph are prescribed by the Ministry of Justice Order and the Ministry of

Finance Order.

(11) If a person who has been ordered to deposit pursuant to the provisions of paragraph (3) deposits, within the period specified under that paragraph, the whole amount so ordered or notifies the Director General of Customs of entering into a contract prescribed in paragraph (6), the Director General of Customs discontinues verification procedures for the goods which have caused the deposit to be provided.

(12) If the Director General of Customs has discontinued verification procedures pursuant to the provisions of the preceding paragraph, the Director General of Customs shall notify that fact to a person who seeks to import goods subject to the verification procedures and the applicant who has made an application relating to the verification procedures.

Subsection 3 Technical Advisers

Article 69-21. Technical advisers whose opinions are sought by the Director General of Customs pursuant to the provisions of Article 69-5 (Seeking opinions of technical advisers when application for export suspension is filed), Article 69-9 (Seeking opinions of technical advisers in verification procedures pertaining to goods the exportation of which is prohibited), Article 69-14 (Seeking opinions of technical advisers when application for import suspension is filed) and Article 69-19 (Seeking opinions of technical advisers in verification procedures pertaining to goods the importation of which is prohibited), shall not divulge any secrets that they have learned in connection with the cases for which their opinions are sought. The same applies after their resignation.

(2) Necessary matters concerning technical advisers, including designation to technical advisers, are prescribed by Cabinet Order.