

(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 12, 1954)

Latest Revision: Act No. 13 of March 31, 2017

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, hemp, opium, poppy straw, and stimulants (including raw materials thereof as referred to in the Stimulant Drugs Control Act (Act No. 252 of 1951)). However, 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 referred to 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 or copyright neighboring rights, or plant breeder's rights;

(iv) goods that compose the acts set forth in any of items (i) to (iii) and (x) to (xii) of paragraph (1) of Article 2 (Definitions) of the Unfair Competition Prevention Act (Act No. 47 of 1993) (excluding such acts as specified in any of items (i) to (v), (vii) and (viii) of paragraph (1) of Article 19 (Exclusion from application, etc.) of the said Act for the types 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, as set forth in item (i), (iii) or (iv) of the preceding paragraph.

(3) Where the Director General of Customs has reasonable grounds to believe that goods destined for export under the provision of this Chapter contain those that may fall under the goods set forth in item (ii) of paragraph (1), he shall notify that fact to a person who intends to export such goods.

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

Article 69-3. If the Director General of Customs considers that goods destined for export under the provision of this Chapter contain those that may fall under the goods set forth in item (iii) or (iv) of paragraph (1) of the preceding Article, he shall, pursuant to the provision of Cabinet Order, initiate procedures for verifying whether such goods fall under those set forth in the said 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 provision of Cabinet Order, notify a patentholder or other right holder and a person who exports such goods of the fact that verification procedures are to be initiated for such 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 such other matters as may be prescribed by Cabinet Order (the “patentholder or other right holder” as used in this Article and in the next Article means the holder of a patent right, utility model right, design right, trademark right, copyright or copyright neighboring right or plant breeder’s right, or a person who has the right to seek an injunction against unfair competition (i.e., a person who may seek, pursuant to the provision of paragraph (1) of Article 3 (Right to seek an injunction) of the Unfair Competition Prevention Act, the suspension or prevention of infringement of his 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 the goods set forth in the said item; hereinafter the same applies in this Subsection)).

(2) In cases where the Director General of Customs issues a notification prescribed in the preceding paragraph, he shall, together with the notification, notify the patentholder or other right holder concerned of the names and addresses of the person who exports such goods and their consignee, and shall also notify the person who exports such goods of the name and address of the patentholder or other right holder concerned.

(3) In cases where 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

export declaration or other documents filed with respect to such goods pursuant to the provision of Article 67 (Permission of exportation or importation), from any other documents submitted to the Director General of Customs in the verification procedures or from any signs affixed to such goods, he shall notify the patentholder or other right holder concerned 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 of time during which the verification procedures are carried out.

(4) No measures referred to in paragraph (2) of the preceding Article shall be taken by the Director General of Customs with respect to goods destined for export under the provision of this Chapter, unless such goods have been subjected to verification procedures.

(5) When 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, he shall notify the patentholder or other right holder concerned and the person who exports such goods of his findings and the reasons therefor; provided, however, that this does not apply to the case where the notification prescribed in the next paragraph is issued.

(6) In cases where the suspect goods have ceased to be exported before the notification of the verification pertaining to such 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 provision of Cabinet Order, produce to any of the Directors General of Customs evidence necessary to demonstrate *prima facie* infringement with respect to goods which, he believes, infringe his 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 the said or other Director General of Customs if they are to be exported in accordance with the provision of this Chapter (hereinafter in this Article and in the next Article, the Director General of Customs with whom such 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 provision of the Ordinance of the Ministry of Economy, Trade and Industry, seek from the Minister of the said Ministry, in the case where such 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 the said Ordinance, which may stipulate, among other things, that the indication of goods, etc. provided for in item (i) of paragraph (1) of Article 2 of the said Act and related to that person be well known among consumers, or in the case where such 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 the said Act), the certification with respect to the fact that the goods concerned are those obtained by the acts of improper use as provided for in item (x) of paragraph (1) of Article 2 of the said Act and that a person who is likely to export such goods was, at the time when they were transferred to him, aware that they were obtained by such acts and that he was grossly negligent in failing to know that they were so obtained, and shall submit the details of such 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 referred to in the preceding paragraph if the evidence is found insufficient to demonstrate *prima facie* infringement pertaining to such 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, he shall notify the person who has filed the application of his acceptance and the effective period of time of the application (i.e., the period of time during which the Director General of Customs is to carry out, based on that application, verification procedures each time he finds that goods to be exported during the period of time pursuant to the provision of this Chapter may contain those pertaining to that application), whereas if the said Director General of Customs does not accept the application pursuant to the provision of the preceding paragraph, he shall notify that person of that fact and the reason therefor.

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

General of Customs, if he has initiated verification procedures for the goods pertaining to that application, he shall, pursuant to the provision of Cabinet Order, provide, upon request, the person who has filed such application or the person who exports such goods with the opportunity to inspect such goods; provided, however, that this does not apply to the case where verification procedures has been discontinued pursuant to the provision of paragraph (6) of the preceding Article.

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

Article 69-5. In the case where the application prescribed in paragraph (1) of the preceding Article is 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 cases pertaining to the application, to serve as technical advisers and may, pursuant to the provision of Cabinet Order, seek the opinions of the technical advisers as to whether the evidence produced pursuant to the provision of paragraph (1) of the preceding Article is sufficient to demonstrate *prima facie* infringement pertaining to such 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 provision of the second sentence of paragraph (1) of the preceding Article.

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

Article 69-6. In the case where 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 such 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 exports goods pertaining to such application is likely to incur from being unable to export until completion of the verification procedures for such goods, the Director General of Customs may order a person who has filed such application (hereinafter in this Article referred to as “applicant”) to deposit, within a specified period of time, an amount of money deemed sufficient to cover such damages with the deposit office to be designated by the Director General of Customs.

(2) The Director General of Customs may, if the amount of the monetary deposit provided pursuant to the provision of the preceding paragraph is found insufficient to compensate for the damages provided for in the said paragraph, order the applicant to deposit, within a specified period of time, the amount of money deemed equivalent to the shortfall.

(3) The monetary deposit to be provided pursuant to the provision of the preceding two paragraphs may be replaced by National Government Bonds, Local Government Bonds or other securities which the Director General of Customs considers 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 the formalities required by the Director General of Customs with respect to the deposit provided pursuant to his order prescribed in paragraph (1) or (2) shall be prescribed by Cabinet Order.

(5) When, pursuant to the provision of Cabinet Order, an applicant enters into a contract which provides that the amount necessary to compensate for the damages as provided for in paragraph (1) shall be paid for him and notifies the Director General of Customs of that fact within the period of time specified in paragraph (1) or (2), then he may not deposit the whole or part of the amount referred to in paragraph (1) or (2) while the contract is effective.

(6) The exporter of the goods referred to in paragraph (1) shall have the right, with respect to his claim for the damages against the applicant as provided for in the said paragraph, to be paid, in advance of any other creditors, from the monetary deposit provided pursuant to the provision of paragraphs (1) and (2) (the monetary deposit includes the 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 shall be prescribed by Cabinet Order.

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

(i) where he has, pursuant to the main clause of paragraph (5) of Article 69-3 (Verification procedures pertaining to goods the exportation of which is prohibited), received a notification stating to the effect that the 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) where he 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) where 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 deposit, that the right to claim for compensation for damages as provided for in the said paragraph has been extinguished by prescription, or otherwise that the deposit for compensation for damages as provided for in the said paragraph is no longer necessary;

(iv) where the contract referred to in paragraph (5) has been entered into and has been, pursuant to the provision of Cabinet Order, approved by the Director General of Customs;

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

(9) Necessary matters concerning the recovery of the monetary deposit prescribed in the preceding paragraph shall be prescribed by the Ordinance of the Ministry of Justice and the Ministry of Finance.

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

(11) When the Director General of Customs discontinues verification procedures pursuant to the provision of the preceding paragraph, he shall notify that fact to the person who has made an application pertaining to such procedures and the person who exports the goods pertaining to such procedures.

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

Article 69-7. When verification procedures have been initiated to determine whether goods 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 the said Act; hereinafter the same applies in this paragraph and paragraph (9)), a patentholder

or other right holder pertaining to such 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 those goods that compose the acts set forth in item (x) of paragraph (1) of Article 2 of the said 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 such goods (i.e., a person who exports goods pertaining to the verification procedures; hereinafter the same applies in this Article) may, pursuant to the provision 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 pertaining 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 has been initiated to determine whether the goods pertaining 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 such request is made within the period of time in which the verification procedures are carried out, but before the day on which 10 days (public holidays of the administrative organs are excluded) 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 10 days elapse is referred to as “the day on which 10 days elapse”) (when the Director General of Customs, before expiry of the period of 10 days, finds it necessary to extend such period, taking account of the progress made with respect to verification procedures and other circumstances and notifies the patentholder or other right holder and the exporter of that fact, the period may be extended until the day on which 20 days (public holidays of the administrative organs are excluded) elapse from the date of notification (in paragraph (1) of Article 69-10, the day on which 20 days elapse from the date of notification is referred to as “the day on which 20 days elapse”)) (the “technical scope, etc.” as used in this paragraph means the technical scope as

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 (Application *mutatis mutandis* of the Patent Act) of the Utility Model Act (Act No. 123 of 1959)), or the scope as provided for in paragraph (1) of Article 25 (The 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 the opinions of technical advisers in verification procedures pertaining to goods the exportation of which is prohibited))).

(2) The Director General of Customs shall, if the request prescribed in the preceding paragraph is made, seek, pursuant to the provision 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 the goods pertaining to the request as prescribed in the said 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 he determines it unnecessary to seek the opinion of the said Minister or the Commissioner.

(3) In the case where the 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 provision of the proviso to the preceding paragraph, he 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) When the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office is sought his opinion by the Director General of Customs pursuant to the provision of the main clause of paragraph (2), the Minister or the Commissioner shall provide his opinion in writing within 30 days from the day on which his opinion is sought.

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

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

(7) When the Director General of Customs seeks the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office pursuant to the provision

of the main clause of paragraph (2), he shall, before the opinion prescribed in paragraph (4) is provided, not determine 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 concerned do not fall under those set forth in item (iii) or (iv) of paragraph (1) of Article 69-2, or that, where a person who requests the Director General of Customs to seek the opinion referred to in paragraph (1) is an exporter, the goods concerned fall under those set forth in item (iii) or (iv) of paragraph (1) of the said Article.

(8) In the case where the Director General of Customs seeks the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office pursuant to the provision of the main clause of paragraph (2), if he has, before the opinion prescribed in paragraph (4) is provided, determined that, where a person who requests under paragraph (1) is a patentholder or other right holder, the goods concerned fall under those set forth in item (iii) or (iv) of paragraph (1) of Article 69-2 or that, where a person who requests under paragraph (1) is an exporter, the goods concerned do not fall under those set forth in item (iii) or (iv) of paragraph (1) of the said Article, or if he has discontinued the verification procedures with respect to the goods concerned pursuant to the provision of paragraph (6) of Article 69-3 or paragraph (10) of the preceding Article, he shall notify the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office of that fact. In this case, the Minister or the Commissioner is not required to provide his 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 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 69-3, seek, pursuant to the provision of Cabinet Order, in the case where 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 pertaining 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 in the case where the verification procedures have been initiated to determine whether goods fall under those that compose the acts set forth in the said item, the opinion of the Minister of Economy, Trade and Industry as to whether the goods

concerned fall under those that compose the acts set forth in the said 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 an opinion is sought pursuant to the provision of the preceding paragraph. In this case, necessary technical replacement of terms shall be prescribed by Cabinet Order.

(Seeking the opinion 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 the verification procedures for determining whether goods fall under those that infringe a plant 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 provision 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 plant 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) When the Minister of Agriculture, Forestry and Fisheries or the Minister of Economy, Trade and Industry is sought his opinion by the Director General of Customs pursuant to the provision of the preceding paragraph, the Minister concerned shall provide his opinion in writing within 30 days from the date on which his opinion is sought.

(3) When the Director General of Customs seeks the opinion pursuant to the provision of paragraph (1), he shall notify that fact to a holder of plant 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 exports the goods pertaining to the verification procedures.

(4) When the opinion prescribed in paragraph (2) is provided, the Director General of Customs shall notify that fact and the details of the opinion to the holder of plant breeder's right or the person who has the right to seek an injunction against unfair competition, as the case may be, and to the person who exports the goods pertaining to

the verification procedures, as referred to in the preceding paragraph.

(5) In the case where 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 provision of paragraph (1), if he has, before the opinion prescribed in paragraph (2) is provided, determined that the goods concerned do or do not fall under those that infringe a plant breeder's right or those set forth in item (iv) of paragraph (1) of Article 69-2, or if he has discontinued verification procedures with respect to such goods pursuant to the provision of paragraph (6) of Article 69-3 or paragraph (10) of Article 69-6 (Deposit, etc. pertaining to an application for export suspension), he shall 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 his opinion prescribed in paragraph (2).

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

Article 69-9. In the verification procedures for determining whether goods 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 plant breeder's right), the Director General of Customs may, 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), 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 provision of Cabinet Order, seek, for reference purposes, the opinions of the technical advisers; 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. In the case where an application of a holder of a patent right, utility model right or design right or of a person who has the right to seek an injunction against unfair competition, as prescribed in paragraph (1) of Article 69-4 (Procedures for filing an application pertaining to goods the exportation of which is prohibited, etc.) has been accepted by the Director General of Customs (hereinafter in this Article, a right holder whose application has been accepted is referred to as "applicant"), if

verification procedures have been initiated with respect to goods pertaining to such application, a person who exports such goods may, pursuant to the provision of Cabinet Order, request the Director General of Customs to discontinue the verification procedures after the day specified in each of the following items for the category of cases as set forth respectively therein, provided that such request is made while the verification procedures are carried out:

(i) in the case where it is notified that the period until the day on which 10 days elapse is extended pursuant to the provision of paragraph (1) of Article 69-7 (Seeking the opinion pertaining to goods the exportation of which is prohibited, etc.): the day on which 20 days elapse (in cases where a notification stating to the effect that the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office has been sought pursuant to the provision 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 20 days elapse, or the day on which a period of 10 days elapses from the date of receipt of the notification prescribed in paragraph (6) of Article 69-7 pertaining to seeking such 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 10 days elapse (in cases where a notification stating to the effect that the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office has been sought pursuant to the provision of paragraph (5) of Article 69-7 has been received, the day on which 10 days elapse or the day on which 10 days elapse from the date of receipt of the notification prescribed in paragraph (6) of Article 69-7 pertaining to seeking such opinion, whichever comes later).

(2) When the Director General of Customs has initiated verification procedures with respect to goods pertaining to the application of the applicant, he shall, before the day on which 10 days elapse, notify the date of notification to a person who exports such goods.

(3) When the Director General of Customs is requested to discontinue verification procedures pursuant to the provision of paragraph (1), he shall notify the applicant who has filed an application pertaining to the verification procedures of that fact, and shall order the person who so requests (hereinafter in this Article referred to as "requester") to deposit, within a specified period of time, with the designated deposit office the amount of money deemed sufficient to cover the damages that may be incurred by the applicant from the exportation of the goods pertaining to the verification procedures.

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

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

(6) When the requester, pursuant to the provision of Cabinet Order, enters into a contract providing that the amount of money necessary to compensate for the damages as provided for in paragraph (3) shall be paid for him and notifies the Director General of Customs of that fact within the period of time specified under the said paragraph, then the requester needs not deposit the whole or part of the amount referred to in the said paragraph while the contract is effective.

(7) The applicant referred to in paragraph (3) shall have the right, with respect to his right to claim for the damages provided for in the said paragraph against the requester, to be paid in advance of any other creditors, from the monetary deposit provided pursuant to the provision of the said paragraph (such monetary deposit includes the 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 shall be prescribed by Cabinet Order.

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

(i) where 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) where the contract referred to in paragraph (6) has been entered into and has been, pursuant to the provision of Cabinet Order, approved by the Director General of Customs;

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

(iv) in addition to the situations set forth in the preceding three items, where the applicant referred to in paragraph (12) fails to institute, within 30 days from the date on which he receives the notification prescribed in the said paragraph, any judicial action

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

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

(11) When a person who has been ordered to deposit pursuant to the provision of paragraph (3) deposits, within the period of time specified under the said paragraph, the whole amount of money so ordered or notifies the Director General of Customs of his entering into a contract prescribed in paragraph (6), the Director General of Customs shall discontinue the verification procedures with respect to the goods which have caused such deposit to be ordered.

(12) When the Director General of Customs discontinues the verification procedures pursuant to the provision of the preceding paragraph, he shall notify that fact to the person who exports goods pertaining to such verification procedures and the applicant who has filed an application pertaining to such 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, hemp, opium, poppy straw, stimulants (including raw materials thereof as referred to in the Stimulant Drugs Control Act) and utensils for opium smoking. However, 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 specified 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 the said Act;

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

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

(v) chemicals 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). However, those imported by a person authorized under international treaties or other laws and regulations to import pursuant to the provisions thereof are excluded;

(v-2) pathogens, etc. of Level One and Level 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). However, 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 illegally for the payment of charges or fees or for the withdrawal of depositions and that contain electronic 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., the 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, circuit layout design rights or plant breeder's rights;

(x) goods that compose the acts set forth in any of items (i) to (iii) and (x) to (xii) of paragraph (1) of Article 2 (Definitions) of the Unfair Competition Prevention Act (excluding such acts as specified in any of items (i) to (v), (vii) and (viii) of paragraph (1) of Article 19 (Exclusion from application, etc.) of the said Act for the type of unfair

competitions as set forth respectively in any of items (i) to (iii) and (x) to (xii) of paragraph (1) of Article 2 of the said Act).

(2) The Director General of Customs may confiscate and destroy goods set forth in any of items (i) to (vi), (ix) and (x) of the preceding paragraph, which are to be imported, or may order a person who imports such goods to reshipe them.

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

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

Article 69-12. If the Director General of Customs considers that goods to be imported pursuant to the provision of this Chapter contain those that may fall under the goods set forth in item (ix) or (x) of paragraph (1) of the preceding Article, he shall, pursuant to the provision of Cabinet Order, initiate procedures for verifying whether such goods fall under those set forth in the said 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 provision of Cabinet Order, notify a patentholder or other right holder and a person who imports such goods of the fact that verification procedures are to be initiated for such 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 such other matters as may be prescribed by Cabinet Order (the “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, circuit layout design right or plant breeder’s right, or a person who has the right to seek an injunction against unfair competition (i.e., a person who may seek, pursuant to the provision of paragraph (1) of Article 3 (Right to seek an injunction) of the Unfair Competition Prevention Act, the suspension or prevention of infringement of his 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 the goods set forth in the said item; hereinafter the same applies in this Subsection).

(2) In cases where the Director General of Customs issues a notification prescribed in the preceding paragraph, he shall, together with the notification, notify a patentholder or other right holder pertaining to the goods concerned of the names and addresses of the person who imports such goods and their consignor, and shall also notify a person

who imports such goods of the name and address of the patentholder or other right holder concerned.

(3) In cases where 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 and other documents filed with respect to such goods pursuant to the provision of Article 67 (Permission of exportation or importation), from any other documents submitted to the Director General of Customs in the verification procedures or from any signs affixed to such goods, he shall notify the patentholder or other right holder concerned 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 of time during which the verification procedures are carried out.

(4) No measures referred to in paragraph (2) of the preceding Article shall be taken by the Director General of Customs with respect to goods which are to be imported pursuant to the provision of this Chapter unless such goods have been subjected to verification procedures.

(5) When the Director General of Customs has verified as to whether the goods subject to verification procedures (hereinafter in this Article and Article 69-16 (Examination of samples of suspect goods by applicants) referred to as "suspect goods") do or do not fall under those set forth in item (ix) or (x) of paragraph (1) of the preceding Article, he shall notify the patentholder or other right holder concerned and the person who imports such goods of his 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.

(6) If the situation falls under any of the following items before the notification of verification is issued with respect to suspect goods under the main clause of the preceding paragraph, the Director General of Customs shall notify the patentholder or other right holder concerned of that fact, and shall discontinue the verification procedures:

(i) where the suspect goods have been disposed pursuant to the provision of Article 34 (Disposal of foreign goods);

(ii) where the suspect goods have been destroyed pursuant to the provision of the proviso to paragraph (1) of Article 45 (Liability, etc. for payment of customs duty of a person who has been granted permission) (including the case where applied *mutatis mutandis* pursuant to Articles 36, 41-3, 61-4, 62-7 and 62-15);

(iii) where the suspect goods have been reshipped pursuant to the provision of Article 75 (Reshipment of foreign goods);

(iv) in addition to the situations set forth in the preceding three items, where the suspect goods have ceased to be imported.

(7) Any person who has received a notification prescribed in paragraph (2) or (3) or any applicant provided for in paragraph (2) of Article 69-16 whose application has been approved pursuant to the provision of the said paragraph shall not divulge any matters to have been notified or any other matters to have learned during the examination (including examination 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 provision of Cabinet Order, produce to any of the Directors General of Customs evidence necessary to demonstrate *prima facie* infringement with respect to goods which, he believes, infringe his 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 the said or other Director General of Customs, if they are to be imported in accordance with the provision of this Chapter (hereinafter in this Article and in the next Article, the Director General of Customs with whom such 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 provision of the Ordinance of the Ministry of Economy, Trade and Industry, seek from the Minister of the said Ministry, in the case where such 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 the said Ordinance, which may stipulate, among other things, that the indication of goods, etc. provided for in item (i) of paragraph (1) of Article 2 of the said Act and related to that person be well known among consumers, or in the case where such 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 the said Act), the certification with respect to the fact that the goods concerned are those obtained by the acts of improper use as provided for in item (x) of paragraph (1) of Article 2 of the said

Act and that a person who is likely to import such goods was, at the time when they were transferred to him, aware that they were obtained by such acts and that he was grossly negligent in failing to know that they were so obtained, and shall submit the details of such 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 such 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, he shall notify the person who has filed the application of his acceptance and the effective period of time 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 he finds that the goods to be imported during such period of time pursuant to the provision of this Chapter may contain those pertaining to that application), whereas if the said Director General of Customs does not accept that application pursuant to the provision of the preceding paragraph, he shall notify that person of that fact and the reason therefor.

(4) In the case where the Director General of Customs has accepted the application prescribed in paragraph (1) or such application has been accepted by any other Director General of Customs, if he has initiated verification procedures for goods pertaining to the application, he shall, pursuant to the provision of Cabinet Order, provide, upon request, a person who has filed such application or a person who imports such goods with the opportunity to inspect such goods; provided, however, that this does not apply to the case where verification procedures has been discontinued pursuant to the provision of paragraph (6) of the preceding Article.

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

Article 69-14. In cases where 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, having no special interests with the parties involved in the cases pertaining to the application, to serve as technical advisers and may, pursuant to the provision of Cabinet Order, seek the opinions of the technical advisers as to whether the evidence produced pursuant to the provision of the said paragraph is sufficient to demonstrate *prima facie* infringement pertaining to such

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 provision of the second sentence of the said paragraph.

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

Article 69-15. In the case where the Director General of Customs has accepted an application prescribed in paragraph (1) of Article 69-13 (Procedures for application pertaining to goods the importation of which is prohibited) or such 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 imports the goods pertaining the application is likely to incur from being unable to import until completion of the verification procedures for such goods, the Director General of Customs may order a person who has filed such application (hereinafter in this Article referred to as “applicant”) to deposit, within a specified period of time, an amount of money deemed sufficient to cover such damages with the deposit office to be designated by the Director General of Customs.

(2) The Director General of Customs may, if the amount of the monetary deposit provided pursuant to the provision of the preceding paragraph is found insufficient to compensate for the damages provided for in the said paragraph, order the applicant to deposit, within a specified period of time, the amount of money deemed equivalent to the shortfall.

(3) The monetary deposit to be provided pursuant to the provision of the preceding two paragraphs may be replaced by National Government Bonds, Local Government Bonds or other securities which the Director General of Customs considers 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 the formalities required by the Director General of Customs with respect to the deposit provided pursuant to his order prescribed in paragraph (1) or (2) shall be prescribed by Cabinet Order.

(5) When, pursuant to the provision of Cabinet Order, an applicant enters into a contract which provides that the amount necessary to compensate for the damages as provided for in paragraph (1) shall be paid for him and notifies the Director General of Customs of that fact within the period of time specified in paragraph (1) or (2), then he

may not deposit the whole or part of the amount referred to in paragraph (1) or (2) while the contract is effective.

(6) The importer of goods referred to in paragraph (1) shall have the right, with respect to his claim for the damages against the applicant as provided for in the said paragraph, to be paid, in advance of any other creditors, from the deposit provided pursuant to the provision of paragraphs (1) and (2) (the 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 shall be prescribed by Cabinet Order.

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

(i) where he has received a notification prescribed in the main clause of paragraph (5) of Article 69-12 (Verification procedures pertaining to goods the importation of which is prohibited), stating to the effect that the goods which have caused the deposit to be provided fall under those set forth in item (ix) or (x) of paragraph (1) of Article 69-11 (Goods the importation of which is prohibited);

(ii) where he has received a notification prescribed in paragraph (6) of Article 69-12 with respect to goods which have caused the deposit to be provided;

(iii) where it has been proved to, and confirmed by, the Director General of Customs that the importer 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 the said paragraph has been extinguished by prescription, or otherwise that the deposit for compensation for damages as provided for in the said paragraph is no longer necessary;

(iv) where the contract referred to in paragraph (5) has been entered into and has, pursuant to the provision of Cabinet Order, been approved by the Director General of Customs;

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

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

(10) If a person who has been ordered to deposit pursuant to the provision of paragraph (1) or (2) fails to deposit the whole amount within the period of time specified pursuant

to the provision of these paragraphs and also fails to notify his entering into a contract prescribed in paragraph (5), the Director General of Customs may discontinue verification procedures with respect to goods which have caused the deposit to be provided.

(11) If the Director General of Customs discontinues verification procedures pursuant to the provision of the preceding paragraph, he shall notify that fact to a person who has filed an application pertaining to the procedures and a person who imports goods pertaining to such procedures.

(Examination 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 plant 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 pertaining to goods the importation of which is prohibited, etc.) has been accepted, may file with the Director General of Customs an application for approval for examination of a sample of suspect goods pertaining to the verification procedures, provided that it is filed while the verification procedures pertaining to such goods are carried out. In this case, the Director General of Customs, upon receipt of an application for approval, shall notify a person who imports such suspect goods of that fact.

(2) The Director General of Customs shall, if all of the requirements set forth in the following items are met, give approval, in response to an application filed under the preceding paragraph, to a person who has filed such application (including a person assigned to conduct the examination; hereinafter in this Article (excluding paragraph (5)) referred to as "applicant") to examine the sample of suspect goods pertaining to the verification procedures; provided, however, that this does not apply to the case where it is evident that the goods pertaining to such 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 circuit layout design right are excluded; the same applies in this paragraph and paragraph (5)) or item (x) of paragraph (1) of the said Article, or otherwise where the Director General of Customs finds that such approval is not necessary to be granted:

(i) that the examination of sample is found necessary for the purpose of producing evidence or stating his opinion to the Director General of Customs to substantiate that the suspect goods pertaining to the sample fall under those set forth in item (ix) or (x) of paragraph (1) of Article 69-11;

- (ii) that it is considered that the interests of a person who imports suspect goods pertaining 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 considered that the sample is not likely to be used for unjust purposes;
- (iv) that the applicant is considered to have the ability and resources necessary to properly carry out transport, storage, examination or other handling, of the sample.
- (3) In cases where the Director General of Customs approves examination of a sample by an applicant pursuant to the provision of the preceding paragraph, he shall notify that fact to the applicant (excluding a person assigned to conduct the examination) and the person who imports the suspect goods pertaining to the sample.
- (4) In cases where approval is given by the Director General of Customs pursuant to the provision of paragraph (2), the expenses necessary for the transport, storage or examination of a sample and other expenses shall be borne by the applicant to the extent necessary for the examination 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 provision 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 shall be replaced respectively by 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 such 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 such application (hereinafter in this Article referred to as "applicant")	a person who has made an 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 in paragraph (2) of the next Article

(6) In cases where examination of a sample is conducted by the applicant who has been granted approval pursuant to the provision of paragraph (2), customs officials shall attend the examination. In this case, a person who imports the suspect goods pertaining to the sample may, upon request to the Director General of Customs, attend the examination.

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

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

Article 69-17. 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 the said Act; hereinafter the same applies in this paragraph and paragraph (9)), a patentholder or other right holder pertaining to such 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 those goods that compose the acts set forth in item (x) of paragraph (1) of Article 2 of the said 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 pertaining to such goods (i.e., a person who imports goods pertaining to the verification procedures; hereinafter the same applies in this Article) may, pursuant to the provision of Cabinet Order, request the Director General of Customs to seek, in the case where verification procedures have been initiated to determine whether the goods pertaining 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 pertaining 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 such request is made within the period of time during which the verification procedures are carried out, but before the day on which 10 days (public holidays of the administrative organs are excluded) elapse from the day on which the patentholder or 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 10 days elapse is referred to as “the day on which 10 days elapse”) (when the Director General of Customs, before expiry of the period of 10 days, finds it necessary to extend such period, taking account of the progress made with respect to verification procedures and other circumstances and notifies the patentholder or other right holder and the importer of that fact, the period may be extended until the day on which 20 days (public holidays of the administrative organs are excluded) elapse from the date of notification (in paragraph (1) of Article 69-20, the day on which 20 days elapse from the date of notification is referred to as “the day on which 20 days elapse”)) (the “technical scope, etc.” as used in this paragraph means the technical scope as 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 (Application *mutatis mutandis* of the Patent Act) of the Utility Model Act), or the scope as provided for in paragraph (1) of Article 25 (The scope of registered design, etc.) of the Design Act (the same applies in paragraph (9) and Article 69-19 (Seeking the opinions of technical advisers in verification procedures pertaining to goods the importation of which is prohibited))).

(2) When a request prescribed in the preceding paragraph is made, the Director General of Customs shall, pursuant to the provision of Cabinet Order, 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 the goods pertaining to the request as prescribed in the said paragraph do or do not fall under those set forth in item (ix) or (x) of paragraph (1) of Article 69-11 (Goods the importation of which is prohibited) or otherwise where he considers it unnecessary to seek the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office.

(3) In the case where 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 provision of the proviso to the preceding paragraph, he shall notify the right holder or 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 is sought his opinion by the Director General of Customs pursuant to the provision of the main clause of paragraph (2), he shall provide his opinion in writing within 30 days from the day on which his opinion is sought.

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

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

(7) When the Director General of Customs seeks the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office pursuant to the provision of the main clause of paragraph (2), he shall, before the opinion prescribed in paragraph (4) is provided, not determine 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 concerned do not fall under those set forth in item (ix) or (x) of paragraph (1) of Article 69-11, or that, where a person who requests the Director General of Customs to seek the opinion referred to in paragraph (1) is an importer, the goods concerned fall under those set forth in item (ix) or (x) of paragraph (1) of the said Article.

(8) In the case where the Director General of Customs seeks the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office pursuant to the provision of the main clause of paragraph (2), if he has, before the opinion prescribed in paragraph (4) is provided, determined that, where a person who makes the request under paragraph (1) is a patentholder or other right holder, the goods concerned fall under those set forth in item (ix) or (x) of paragraph (1) of Article 69-11 or that, where a person who makes the request under paragraph (1) is an importer, the goods concerned do not fall under those set forth in item (ix) or (x) of paragraph (1) of the said Article, or if he has discontinued verification procedures with respect to the goods concerned pursuant to the provision of paragraph (6) of Article 69-12 or paragraph (10) of Article 69-15 (Deposit, etc. pertaining to application for import suspension), he shall notify the said Minister or Commissioner of that fact. In this case, the said Minister or Commissioner is not required to provide his 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 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 provision of Cabinet Order, in the case where 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 pertaining 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 in the case where the verification procedures have been initiated to determine whether goods fall under those that compose the acts set forth in the said item, the opinion of the Minister of Economy, Trade and Industry as to whether the goods concerned fall under those that compose the acts set forth in the said item, pertaining 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 provision of the preceding paragraph. In this case, necessary technical replacement of the terms shall be prescribed by Cabinet Order.

(Seeking the opinion 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 fall under those that infringe a plant 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 provision 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 plant 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 the Minister of Agriculture, Forestry and Fisheries or the Minister of Economy, Trade and Industry is sought his opinion by the Director General of Customs pursuant to the provision of the preceding paragraph, the Minister concerned shall provide his opinion in writing within 30 days from the date on which his opinion is sought.

(3) When the Director General of Customs seeks the opinion pursuant to the provision of paragraph (1), he shall notify that fact to a holder of a plant 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 imports the goods pertaining to the verification procedures.

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

(5) In the case where 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 provision of paragraph (1), if he has, before the opinion prescribed in paragraph (2) is provided, determined that the goods concerned do or do not fall under those that infringe a plant breeder's right or those set forth in item (x) of paragraph (1) of Article 69-11, or if he has discontinued verification procedures with respect to such goods pursuant to the provision of paragraph (6) of Article 69-12 or paragraph (10) of Article 69-15 (Deposit, etc. pertaining to an application for import suspension), he shall 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 his 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 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 plant breeder's right), the Director General of Customs may, if it is found necessary for the purpose of carrying out the 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 provision of Cabinet Order, seek the opinions of the technical advisers for reference purposes. However, 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. In the case where an application of a holder of patent right, utility model right, design right or a person who has the right to seek an injunction against unfair competition, as prescribed in paragraph (1) of Article 69-13 (Procedures for application pertaining to goods the importation of which is prohibited, etc.) has been accepted by the Director General of Customs (hereinafter in this Article a right holder whose application has been accepted is referred to as “applicant”), if verification procedures have been initiated with respect to goods pertaining to such application, a person who imports such goods may, pursuant to the provision of Cabinet Order, request the Director General of Customs to discontinue the verification procedures after the day specified in each of the following items for the category of cases as set forth respectively therein, provided that such request is made while the verification procedures are carried out:

(i) in the case where it is notified that the period until the day on which 10 days elapse is extended pursuant to the provision of paragraph (1) of Article 69-17 (Seeking the opinion pertaining to goods the importation of which is prohibited, etc.): the day on which 20 days elapse (in cases where a notification stating to the effect that the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office has been sought pursuant to the provision 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 20 days elapse or the day on which 10 days elapse from the date of receipt of the notification prescribed in paragraph (6) of Article 69-17, pertaining to seeking such 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 10 days elapse (in cases where a notification stating to the effect that the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office has been sought pursuant to the provision of paragraph (5) of Article 69-17 has been received, the day on which 10 days elapse or the day on which 10 days elapse from the

date of receipt of the notification prescribed in paragraph (6) of Article 69-17, pertaining to seeking such opinion, whichever comes later).

(2) When the Director General of Customs has initiated verification procedures with respect to goods pertaining to the application of the applicant, he shall, before the day on which 10 days elapse, notify a person who imports such goods of the date of notification.

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

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

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

(6) When the requester, pursuant to the provision of Cabinet Order, enters into a contract which provides that the amount of money necessary to compensate for the damages as provided for in paragraph (3) shall be paid for him, and notifies the Director General of Customs of that fact within the period of time specified under the said paragraph, then the requester may not deposit the whole or part of the amount referred to in the said paragraph while the contract is effective.

(7) The applicant referred to in paragraph (3) shall have the right, with respect to his right to claim for damages provided for in the said paragraph against the requester, to be paid in advance of any other creditors, from the monetary deposit provided pursuant to the provision of the said paragraph (such deposit includes the 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 shall be prescribed by Cabinet Order.

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

(i) where 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 as provided for in paragraph (3) is no longer necessary;

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

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

(iv) in addition to the situations as set forth in the preceding three items, where the applicant referred to in paragraph (12) fails to institute, within 30 days from the date on which he receives the notification prescribed in the said paragraph, any judicial action for claiming for the damages as provided for in paragraph (3).

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

(11) When a person who has been ordered to deposit pursuant to the provision of paragraph (3) deposits, within the period of time specified under the said paragraph, the whole amount of money so ordered or notifies the Director General of Customs of his entering into a contract prescribed in paragraph (6), the Director General of Customs shall discontinue the verification procedures with respect to the goods which have caused such deposit to be provided.

(12) When the Director General of Customs discontinues the verification procedures pursuant to the provision of the preceding paragraph, he shall notify that fact to the person who imports the goods pertaining to such verification procedures and the applicant who has made an application pertaining to such 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 the opinions of technical advisers with respect to application for export suspension), Article 69-9 (Seeking the opinions of technical advisers in verification procedures pertaining to goods the exportation of which is prohibited), Article 69-14 (Seeking the opinions of technical

advisers with respect to application for import suspension) and Article 69-19 (Seeking the 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 with respect to 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, shall be prescribed by Cabinet Order.