

(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.9 of March 30, 2024

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 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 items (i) to (vi), (viii) or (x) 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 that are set forth in item (i), (iii) or (iv) of the preceding paragraph and are sought to be exported.
- (3) If the Director General of Customs has reasonable grounds to believe that there are, among those goods that a person seeks to export in accordance with the provisions of this Chapter, goods that are found to fall under those as set forth in item (ii) of paragraph (1), the Director General of Customs shall notify that finding to the person who seeks to export these 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 that a

person seeks to export in accordance with the provisions of this Chapter, goods that 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 associated with these goods (i.e., a holder of a patent right, utility model right, design right, trademark right, copyright, copyright neighboring right, breeder’s right or 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 the goods set forth in that item; hereinafter the same applies in this Subsection); hereinafter in this Article and the next Article the same applies) 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.

- (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 associated with the goods at issue of the names and addresses of the person who seeks to export these goods and their consignee and also notify the person who seeks to export these 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 filed with, or other documents submitted to the Director General of Customs in connection with export of these goods under Article 67 (Export or import permission), from other documents submitted to the Director General of Customs in the verification procedures or from indications affixed to the goods, the Director General of Customs shall notify the patentholder or other right holder concerned of the name or address of the manufacturer, simultaneously with the notification referred to in paragraph (1) or thereafter while 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 with respect to goods that a person seeks to export in accordance with the provisions of this Chapter unless these goods have undergone verification procedures.
- (5) If the Director General of Customs has verified that the goods subject to verification procedures (in the next paragraph referred to as “suspect goods”) either fall 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 associated with the goods and the person who seeks to export the goods of the findings and the reasons therefor; provided, however, that this does not

apply if the Director General of Customs has issued a notification prescribed in the next paragraph.

- (6) If, before the notification of verification related to suspect goods as prescribed in the main clause of the preceding paragraph is issued, the suspect goods have ceased to be exported, the Director General of Customs shall notify this to the patentholder or other right holder associated with the suspect goods and shall discontinue the verification procedures. In this case, a person who seeks to cease exportation of the suspect goods shall notify this to the Director General of Customs in advance.
- (7) Any person who has been notified under 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, etc. for filing of an application related 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 that are found to infringe the patent right, utility model right, design right, trademark right, copyright, copyright neighboring right, breeder's right or business interests of that patentholder or other right holder, and may file with any of the Directors General of Customs an application for initiating verification procedures by any of the Directors General of Customs if these goods are likely 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 holder of 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, if 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 related 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 if the goods are those set forth in item (iv) of paragraph (1) of Article 69-2 (limited to those related 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 generated by the acts of unauthorized 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 is not the person who was not aware, at the time when they were transferred to that person, that they were generated by such acts and was not grossly negligent in failing to know that they were so generated, and shall submit the details of the opinion or certification in writing to the Director General of Customs with whom application is filed.

- (2) When an application prescribed in the preceding paragraph has been filed, if it is found that the evidence is not sufficient to demonstrate the fact of prima facie infringement related to that

application, the Director General of Customs with whom application is filed may elect not to accept that application.

- (3) When the application prescribed in paragraph (1) has been filed, if the Director General of Customs with whom application is filed has accepted the application, the Director General of Customs shall notify the person who has filed the application of that fact and the effective period of that 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 likely to be exported during that period in accordance with the provisions of this Chapter, goods related to the application) and if the Director General of Customs has not accepted the application pursuant to the provisions of the preceding paragraph, the Director General of Customs 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 such an application has been accepted by any other Director General of Customs, if verification procedures for goods that relate to the application has been initiated, the Director General of Customs shall, pursuant to the provisions of Cabinet Order, provide the person who has filed that application or the person who seeks to export the goods with an opportunity to inspect the goods, upon application of the person concerned; provided, however, that this does not apply if verification procedures have been discontinued pursuant to the provisions of paragraph (6) of the preceding Article.

(Seeking opinions of technical advisers when an application for export suspension is filed)

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 to do so, 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 associated with 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 related 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, etc. for filing of an application related to goods the

exportation of which is prohibited) or such an application has been accepted by any other Director General of Customs, if it is found necessary in order to ensure compensation for damages that a person who seeks to export goods related to that application is likely to incur from being unable to export until completion of the verification procedures for these goods, the Director General of Customs may order a person who has filed the application (hereinafter in this Article referred to as “applicant”) to deposit, within a specified period, an amount of money deemed to be sufficient to cover the damages with the deposit office 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 an applicant to deposit, within a specified period, an amount of money 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 that 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 in connection with the deposit provided pursuant to the order prescribed in paragraph (1) or (2) are specified by Cabinet Order.
- (5) If, pursuant to the provisions of Cabinet Order, an applicant has entered into a contract providing that the amount of money 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 this 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 is effective.
- (6) An exporter of the goods referred to in paragraph (1) has the right, with respect to the claim for compensation 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 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 (5) of Article 69-3 (Verification procedures pertaining to goods the exportation of which is prohibited), stating that the goods that 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 that 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 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 on other grounds.
- (9) Necessary matters concerning recovery of monetary deposit prescribed in the preceding paragraph are specified 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, within the period specified pursuant to the provisions of these paragraphs, the whole amount of money ordered to be deposited and also fails to issue a notification of entering into a contract prescribed in paragraph (5), the Director General of Customs may discontinue verification procedures with respect to 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 this to a person who has made an application related to the verification procedures and a person who seeks to export the goods subject to the verification procedures.

(Request for hearing opinions pertaining to goods the exportation of which is prohibited, etc.)

Article 69-7. 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 or 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 (viii) 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 related to these goods (i.e., a holder of patent right, utility model right, design right or right to seek an injunction against unfair competition (limited to a person related 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 related 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 hear, when the verification procedures have been initiated to determine 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 (excluding a holder of right to seek an injunction against unfair competition), the opinion of the Commissioner of the Patent Office with respect to the technical scope, etc. (i.e., 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 cases 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) or when the verification procedures have been initiated to determine whether the goods subject to the verification 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 holder of 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 do or do not 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 69-3 (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 or other circumstances and notifies the patentholder or other right holder and the exporter of that finding, 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”))

- (2) If a request prescribed in the preceding paragraph has been made, the Director General of Customs, pursuant to the provisions of Cabinet Order, shall 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 if the Director General of Customs finds it evident that goods subject 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 if 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 this and the reason therefor to the patentholder or other right holder or the exporter, who has made the request prescribed in paragraph (1).
- (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 this to the patentholder or other right holder and the exporter concerned.
- (6) If the opinion prescribed in paragraph (4) has been provided, the Director General of Customs shall notify this fact and the details of the opinion to the patentholder or other right holder and the exporter concerned.
- (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, before the opinion prescribed in paragraph (4) is provided, shall not determine that, if a person who requests the Director General of Customs to seek the opinion under 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 that, if a person who requests the Director General of Customs to seek the opinion under 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, when 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 that, when 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 when 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 do or do not fall under those that infringe a patent right, utility model right or design right or 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, when the verification procedures have been initiated to determine whether goods do or do not 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 holder of right to seek an injunction against unfair competition), or when the verification procedures have been initiated to determine whether goods do or do not 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 subject to the verification procedures do or do not fall under those that compose the acts set forth in that item and related to the patentholder or other right holder concerned (limited to a holder of 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 when 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 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 (Goods the exportation of which is prohibited) (excluding goods related 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 for verifying whether the goods at issue do or do not fall under those that infringe a breeder's right or the opinion of the Minister of Economy, Trade and Industry in the case of verification procedures for verifying whether the goods at issue do or do not 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 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) When the Director General of Customs has sought the opinion pursuant to the provisions of paragraph (1), the Director General of Customs shall notify this to a holder of breeder's right or a holder of right to seek an injunction against unfair competition, involved in the verification

procedures, and to a person who seeks to export goods subject to the verification procedures.

- (4) When the opinion prescribed in paragraph (2) has been provided, the Director General of Customs shall notify this and the details of the opinion to a holder of breeder's right or a holder of right to seek an injunction against unfair competition, referred to in the preceding paragraph and to a person who seeks to export the goods subject to the verification procedures.
- (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 subject to the verification procedures, to serve as technical advisers, and may, pursuant to the provisions of Cabinet Order, seek, for reference purposes, opinions of the technical advisers for the purpose of the verification; 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, etc.)

Article 69-10. If verification procedures have been initiated with respect to goods that relate to the application prescribed in paragraph (1) of Article 69-4 (Procedures, etc. for filing of an application related to goods the exportation of which is prohibited) that has been filed by a holder of a patent right, utility model right, design right or right to seek an injunction against unfair competition (hereinafter in this Article referred to as "applying patentholder, etc.") and has been accepted, 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 has been 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 (Request for hearing opinions 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 cases where applied mutatis mutandis pursuant to paragraph (10) of Article 69-7; the same applies in the next item) has been received, then 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, related to seeking of the opinion (including the cases 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 related to seeking of the opinion, as prescribed in paragraph (6) of Article 69-7, whichever comes later).
- (2) If the Director General of Customs has initiated verification procedures with respect to goods that relate to the application of the applying patentholder, etc., 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 applying patentholder, etc. who has filed an application related to the verification procedures of that request and shall order the person who has so requested (hereinafter in this Article referred to as “requester”) to deposit, within a specified period, the amount of money deemed sufficient to cover compensation for damages that the applying patentholder, etc. is likely to incur from export of the goods subject to the verification procedures with the designated deposit office.
 - (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 that 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 specified by Cabinet Order.
 - (6) If, pursuant to the provisions of Cabinet Order, the requester has entered into a contract that provides 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 this fact within the period 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 is effective.

- (7) The applying patentholder, etc. referred to in paragraph (3) has the right, with respect to the right to claim for compensation 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 applying patentholder, etc. 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 what is set forth in the preceding three items, if the applying patentholder, etc. referred to in paragraph (12) fails to institute, within thirty days from the date of receipt of the notification prescribed in that paragraph, the judicial action for claiming for compensation for damage as provided for in paragraph (3).
- (10) Necessary matters concerning recovery of the monetary deposit prescribed in the preceding paragraph are specified 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 shall discontinue the verification procedures with respect to the goods that have caused the deposit to be ordered.
- (12) When the verification procedures have been discontinued pursuant to the provisions of the preceding paragraph, the Director General of Customs shall notify this to a person who seeks to export the goods subject to the verification procedures and the applying patentholder, etc. who has filed an application for 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) handguns, rifles, machine guns, cannons, and bullets thereof and parts of handguns; 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 (22) and paragraph (23) 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 electronic or magnetic records;
- (vii) books, drawings, carvings or other articles that are detrimental to public security or that corrupt public morals (excluding 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 (in the case of goods that infringe design rights or trademark rights only, goods that fall under those set forth in the following items are excluded);
 - (ix)-2 goods that infringe design rights or trademark rights (limited to goods sent from abroad to a person in Japan (in the case of goods that infringe design rights, a person who imports such goods as its business is excluded; and in the case of goods that infringe trademark rights, a person who produces, certificates or assigns goods as its business is excluded) and related to an act of having another person bring from a foreign country into Japan (i.e., an act through which a person in a foreign country has another person bring relevant goods into Japan from a foreign country, as provided for in item (i) of paragraph (2) of Article 2 (Definitions, etc.) of the Design Act or paragraph (7) of Article 2 (Definitions, etc.) of the Trademark Act (Act No. 127 of 1959)));
 - (x) goods that compose the acts set forth in items (i) to (iii), (x), (xvii) or (xviii) of paragraph (1) of Article 2 (Definitions) of the Unfair Competition Prevention Act (excluding those acts as specified in items (i) to (vi), (viii) or (x) of paragraph (1) of Article 19 (Exclusion from application, etc.) of that Act for the category of unfair competitions as set forth respectively in items (i) to (iii), (x), (xvii) or (xviii) of paragraph (1) of Article 2 of that Act).
- (2) The Director General of Customs may confiscate and dispose of goods that are set forth in items (i) to (vi) or (ix) to (x) of the preceding paragraph and are likely to be imported, or may order a person who seeks to import these goods to reship them.
- (3) If the Director General of Customs has reasonable grounds to believe that there are, among goods that a person seeks to import pursuant to the provisions of this Chapter, goods that fall under those set forth in item (vii) or (viii) of paragraph (1), the Director General of Customs shall notify that fact to the person who seeks to import these goods.

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

Article 69-12. If the Director General of Customs considers that there are, among those goods that a person seeks to import in accordance with the provisions of this Chapter, goods that fall under those set forth in items (ix) to (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 these goods do or do not 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 concerned (i.e., a holder of a patent right, utility model right, design right, trademark right, copyright, copyright neighboring right, layout-design exploitation right, breeder’s right or 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 suspension or prevention of infringement of 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); hereinafter in this Article the same applies) 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 do or do not fall under those set forth in items (ix) to (x) of paragraph (1) of the preceding Article and other matters prescribed by Cabinet Order.

- (2) When the Director General of Customs issues a notification prescribed in the preceding paragraph, the Director General of Customs shall notify a patentholder or other right holder associated with the goods at issue of the names and addresses of a person who seeks to import these goods and their consignor and shall also notify the 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 goods subject to verification procedures is evident from a written import declaration filed with, or other documents submitted to the Director General of Customs in connection with importation of these goods under Article 67 (Export or import permission), from other documents submitted to the Director General of Customs in the verification procedures or from indications affixed to the goods, the Director General of Customs shall notify the patentholder or other right holder concerned of the name or address of the manufacturer simultaneously with the notification referred to in paragraph (1) or thereafter while the verification procedures are carried out.
- (4) If a person who has been notified under paragraph (1) as provided for in that paragraph seeks to import goods and 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 its assertion and other documents specified by Cabinet Order.
- (5) The measures referred to in paragraph (2) of the preceding Article may not be taken by the Director General of Customs with respect to goods that are sought to be imported in accordance with the provisions of this Chapter unless these goods have undergone verification procedures.
- (6) If the Director General of Customs has verified that the suspect goods either fall or do not fall

under the goods 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 associated with these verified goods and the person who seeks to import these verified goods of the findings and the reason therefor; provided, however, that this does not apply if a notification prescribed in the next paragraph is issued.

- (7) If the situation has fallen under any of the following items before the Director General of Customs notifies the relevant persons of the verification of suspect goods under the main clause of the preceding paragraph, the Director General of Customs notifies the patentholder or other right holder associated with the suspect goods of the situation 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 for payment of customs duty, etc. of a person who has obtained permission) (including the cases 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.
- (8) A person who has been notified under 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 related to the application to any other person without reason, nor shall use such matters for any unjust purpose.

(Procedures, etc. for filing of an application related 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, breeder's right or 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 that are found to infringe the patent right, utility model right, design right, trademark right, copyright, copyright neighboring right, breeder's right or business interests of that holder, and may file with any of the Directors General of Customs an application for verification procedures to be initiated by any of the Directors General of Customs if these goods are likely 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 holder of 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, if 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 related 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 associated with that person be well known among consumers, or if the goods are those set forth in item (x) of paragraph (1) of Article 69-11 (limited to those related 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 generated through the acts of unauthorized 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 is not the person who was not, at the time when they were transferred to that person, aware that they were generated through the acts of unauthorized use and was not grossly negligent in failing to know that they were so generated, and shall submit the details of the opinion or certification in writing to the Director General of Customs with whom application is filed.

- (2) When the application prescribed in the preceding paragraph has been filed, if it is found that the evidence is not sufficient to demonstrate prima facie infringement related to that application, the Director General of Customs with whom application is filed may elect not to accept that application.
- (3) When the application prescribed in paragraph (1) has been filed, if the Director General of Customs with whom application is filed has accepted the application, the Director General of Customs shall notify this 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 related to the application are found among those goods likely to be imported during the period in accordance with the provisions of this Chapter) to a person who has filed the application and if the Director General of Customs with whom application is filed has not accepted the application pursuant to the provisions of the preceding paragraph, the Director General of Customs shall notify that person of this fact and the reason therefor.
- (4) When the Director General of Customs has accepted the application prescribed in paragraph (1) or such an application has been accepted by any other Director General of Customs, if verification procedures has been initiated for goods that relate to the application, the Director General of Customs shall, pursuant to the provisions of Cabinet Order, provide a person who has filed the application or a person who seeks to import the goods with an opportunity to inspect the goods upon application of the person concerned; provided, however, that this does not apply if the verification procedures have been discontinued pursuant to the provisions of paragraph (7) of the preceding Article.

(Seeking opinions of technical advisers when an application for import suspension is filed)

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 may, if it is found necessary to do so, designate persons with academic background and experience in intellectual property rights, having no special interests with the parties involved in the case that relates to the application, to serve as technical advisers and may, pursuant to the provisions of Cabinet Order, seek 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 under 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 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, etc. for filing of an application related to goods the importation of which is prohibited) or such an application has been accepted by any other Director General of Customs, if it is found necessary in order to ensure compensation for damages that a person who seeks to import goods that relate to the application is likely to incur from being unable to import until completion of the verification procedures for these goods, the Director General of Customs may order a person who has filed the application (hereinafter in this Article referred to as “applicant”) to deposit, within a specified period, an amount of money deemed to be sufficient to cover the damages with the deposit office designated by the Director General of Customs.

- (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 an applicant to deposit, within a specified period, an amount of money 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 that 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 in connection with the deposit provided pursuant to the order prescribed in paragraph (1) or (2) are specified by Cabinet Order.
- (5) If, pursuant to the provisions of Cabinet Order, an applicant has entered into a contract that

provides that the amount of money necessary to compensate for the damages provided for in paragraph (1) is to 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 is effective.

- (6) The importer of goods referred to in paragraph (1) has the right, with respect to the claim for compensation 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 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 the goods that 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 that 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 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 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 on other grounds.
- (9) Necessary matters concerning recovery of the monetary deposit provided for in the preceding paragraph are specified 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, within the period specified pursuant to the provisions of these paragraphs, the whole amount of money and also fails to issue a notification of entering into a contract prescribed in paragraph (5), the Director General of Customs may discontinue verification procedures with respect to 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 this to a person who has filed an application related to the verification procedures and a person who seeks to import goods subject to the verification 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, breeder's right or right to seek an injunction against unfair competition, who has had an application prescribed in paragraph (1) of Article 69-13 (Procedures, etc. for filing of an application related to goods the importation of which is prohibited) accepted may file with the Director General of Customs an application for approval for inspection of a sample of suspect goods that are subject to the verification procedures, provided that the application for approval is filed while the verification procedures for these goods are carried out. In this case, the Director General of Customs who has received the application shall notify this to a person who seeks to import the suspect goods.

- (2) If all of the requirements set forth in the following items are met, the Director General of Customs shall give, in response to an application filed under the preceding paragraph, approval for inspection of the sample of suspect goods that are subject to the verification procedures to a person who has filed the application (including a person who has been entrusted; hereinafter in this Article (excluding paragraph (5)) referred to as "applicant"); provided, however, that this does not apply if it is evident that the goods subject to that 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 if 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 opinions to the Director General of Customs with respect to the fact that the suspect goods from which the sample has been taken fall under those as set forth in item (ix) of paragraph (1) of Article 69-11 or those set forth 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 from which the sample has been taken are not likely to be unjustly infringed;
 - (iii) that, in addition to what is 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 this to the applicant (excluding a person who has been entrusted) and the person who seeks to import the suspect goods from which the sample has been taken.

- (4) If the approval is given by the Director General of Customs pursuant to the provisions of paragraph (2), the expenses necessary for transport, storage or inspection of the sample and other expenses shall be borne by an applicant to the extent necessary for inspection of the sample.
- (5) The preceding Article (excluding paragraph (11)) applies mutatis mutandis if 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 or phrases to be replaced	Terms or phrases to replace
Paragraph (1) of Article 69-15	from being unable to import until completion of the verification procedures for the goods,	when the suspect goods from which the sample has been taken have not been verified to fall under the goods set forth in item (ix) of paragraph (1) of Article 69-11 or item (ix)-2 or (x) of that paragraph,
	a person who has filed the application (hereinafter in this Article referred to as "applicant")	a person who has filed 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	elect not to give the approval referred to in paragraph (2) of the next Article

- (6) If inspection of a sample is conducted by an 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 from which the sample have been taken may, upon request to the Director General of Customs, attend the inspection.
- (7) In addition to what is 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 specified by Cabinet Order.

(Request for hearing 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 or 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 (viii) 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 associated with these goods (i.e., a holder of patent right, utility model right, design right or right to seek an injunction against unfair competition (limited to a person related 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 (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 hear, when the verification procedures have been initiated to determine 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 (other than a holder of right to seek an injunction against unfair competition), the opinion of the Commissioner of the Patent Office with respect to the technical scope, etc. (i.e., the technical scope provided for in paragraph (1) of Article 70 (Technical scope of patented invention) of the Patent Act (including the cases 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)), or when the verification procedures have been initiated to determine whether the goods subject to the verification 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 (only a holder of 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 do or do not 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 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 or other circumstances and notifies the patentholder or other right holder and the importer of the finding, 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”)).

- (2) If a request prescribed in the preceding paragraph has been made, the Director General of Customs shall, pursuant to the provisions 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 if the Director General of Customs finds it evident that the goods subject 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 if 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 this and the reason therefor to the patentholder or other right holder or importer, who has made the request prescribed in paragraph (1).
- (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 this to the patentholder or other right holder and the importer concerned.
- (6) When the opinion prescribed in paragraph (4) has been provided, the Director General of Customs shall notify this and the details of the opinion to the patentholder or other right holder and the importer concerned.
- (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, before the opinion prescribed in paragraph (4) is provided, shall not determine that, if a person who requests the opinion under 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 if a person who requests the opinion under 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, when 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 items (ix) to (x) of paragraph (1) of Article 69-11 or that, when a person who requests the opinion under 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 for the goods at issue pursuant to the provisions of paragraph (7) of Article 69-12 or paragraph (10) of Article 69-15 (Deposit, etc. pertaining to application for import suspension), the Director General of Customs shall notify the Minister or the Commissioner of that determination or discontinuance. 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 do or do not 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, if it is found necessary for the purpose of verification prescribed in paragraph (1) of Article 69-12, the Director General of Customs may seek, pursuant to the provisions of Cabinet Order, when the verification procedures have been initiated to determine whether the goods subject to the verification procedures do or do not 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 (other than a holder of right to seek an injunction against unfair competition), or when the verification procedures have been initiated to determine whether goods subject to the verification procedures do or do not 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 subject to the verification procedures do or do not fall under those that compose the acts set forth in that item and related to the patentholder or other right holder (only a holder of 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 when an opinion is sought pursuant to the provisions of the preceding paragraph. In this case, necessary technical replacement of the terms is specified 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 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 related 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 to determine whether the goods at issue do or do not fall under those that infringe a breeder's right or the opinion of the Minister of Economy, Trade and Industry in the case of verification procedures to determine whether the goods at issue do or do not 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 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) When the Director General of Customs has sought the opinion pursuant to the provisions of paragraph (1), the Director General of Customs shall notify this to a holder of breeder's right or a holder of right to seek an injunction against unfair competition, involved in the verification procedures and 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 this and the details of the opinion to a holder of breeder's right or a holder of right to seek an injunction against unfair competition, referred to in the preceding paragraph and to a person who seeks to import goods subject to the verification procedures.
- (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 (x) of paragraph (1) of Article 69-11 or if the Director General of Customs has discontinued verification procedures for the goods at issue pursuant to the provisions of paragraph (7) of Article 69-12 or paragraph (10) of Article 69-15 (Deposit, etc. pertaining to application for import 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 determination or discontinuance. 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 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 under those set forth in item (ix)-2 of that paragraph, 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 designate persons with academic background and experience in intellectual property rights, having no special interests with the parties involved in the cases subject to the verification procedures, to serve as technical advisers, and may, pursuant to the provisions of Cabinet Order, seek, for reference purposes, opinions of the technical advisers for the verification; 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, etc.)

Article 69-20. If verification procedures have been initiated for goods related to the application prescribed in paragraph (1) of Article 69-13 (Procedures, etc. for filing of an application related to

goods the importation of which is prohibited) that has been filed by a holder of a patent right, utility model right, design right or right to seek an injunction against unfair competition (hereinafter in this Article referred to as “applying patentholder, etc.”) and has been accepted, a person who seeks to import 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 69-17 (Request for hearing opinions pertaining to goods the importation 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 69-17 (including the cases where applied mutatis mutandis pursuant to paragraph (10) of Article 69-17; the same applies in the next item) has been received, then 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, related to seeking of the opinion (including the cases 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 related to seeking of the opinion, as prescribed in paragraph (6) of Article 69-17, whichever comes later).
- (2) If the Director General of Customs has initiated verification procedures with respect to goods that relate to the application of the applying patentholder, etc., 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 this to the applying patentholder, etc. who has filed an application related to the verification procedures and shall order the person who has so requested (hereinafter in this Article referred to as “requester”) to deposit, within a specified period, an amount of money deemed to be sufficient to ensure compensation for damages that the applying patentholder, etc. is likely incur from import of the goods subject to the verification procedures with the designated deposit office.
 - (4) The monetary deposit that is provided pursuant to the provisions of the preceding paragraph may be replaced by National Government Bonds, Local Government Bonds or other securities that 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 specified by Cabinet Order.

- (6) If, pursuant to the provisions of Cabinet Order, the requester has entered into a contract that provides that the amount necessary to compensate for damages as provided for in paragraph (3) is paid on the requester's behalf and has notified this to the Director General of Customs within the period 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 is effective.
- (7) The applying patentholder, etc. 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 specified by Cabinet Order.
- (9) A requester who has provided 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 applying patentholder, etc. 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 on other grounds;
 - (iv) in addition to what is set forth in the preceding three items, if the applying patentholder, etc. referred to in paragraph (12) fails to institute, within thirty days from the date on which the applying patentholder, etc. receives the notification prescribed in that paragraph, any judicial action for claiming for compensation for damages as provided for in paragraph (3).
- (10) Necessary matters concerning recovery of monetary deposit as prescribed in the preceding paragraph are specified by the Ministry of Justice Order and the Ministry of Finance Order.
- (11) When 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 issues to the Director General of Customs a notification of entering into a contract prescribed in paragraph (6), the Director General of Customs shall discontinue verification procedures for the goods that have caused the deposit to be provided.
- (12) When the Director General of Customs has discontinued verification procedures pursuant to the provisions of the preceding paragraph, the Director General of Customs shall notify this to a person

who seeks to import goods subject to the verification procedures and the applying patentholder, etc. who has made an application related 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 an 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 an 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 specified by Cabinet Order.