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**特此声明。**

**中国五矿化工进出口商会**

# G/ADP/N/1/VNM/2 G/SCM/N/1/VNM/1 G/SG/N/1/VNM/2

30 October 2018

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# Committee on Anti-Dumping Practices 反倾销实践委员会

**Committee on Subsidies and Countervailing Measure** 补贴和反补贴措施委员会

**Committee on Safeguards** 保障措施委员会

Original: English

NOTIFICATION OF LAWS AND REGULATIONS UNDER ARTICLE 18.5, 32.6 AND 12.6 OF THE AGREEMENT ON IMPLEMENTATION OF ARTICLE VI OF THE

**GENERAL AGREEMENT ON TARIFFS AND TRADE 1994**

**VIET NAM**

**越南**根据1994年《关于执行关税和贸易总协定》第6条的协定第18.5、32.6和12.6条有关法律和法规的通知

The following communication, dated 31 August 2018, is being circulated at the request of the delegation of Viet Nam.

应越南代表团的请求，现分发2018年8月31日的来文如下。

Pursuant to Article 18.5 of the WTO Anti-Dumping Agreement, Article 32.6 of the WTO Agreement on Subsidies and Countervailing Measures and Article 12.6 of the WTO Agreement on Safeguards, Viet Nam hereby notifies the Committee on Anti-Dumping Practices, the Committee on Subsidies and Countervailing Duties and the Committee on Safeguards oflegislative changes enacted through the Law No. 05/2017/QH14 on Foreign Trade Management dated 12 June 2017, Decree No. 10/2018/ND-CP detailing a number of articles of the Law on Foreign Trade Management regarding trade remedies dated 15 January 2018, and Circular No. 06/2018/TT-BCT detailing some contents regarding trade remedies dated 20 April 2018 (as attached below).

根据WTO《反倾销协定》第18.5条、WTO《补贴和反补贴措施协定》第32.6条和WTO《保障措施协定》第12.6条，越南特此通知反倾销实践委员会、补贴和反补贴委员会和保障措施委员会，其通过了以下立法变更：2017年6月12日关于对《外贸易管理》的第05/2017/QH14号法令、2018年1月15日《详细说明<对外贸易管理法>中有关贸易救济措施的若干条款的第10/2018/ND-CP号法令》，以及2018年4月20日第06/2018/TT-BCT号《详细说明若干贸易救济措施若干条款的通告》(见下文)。

|  |  |  |
| --- | --- | --- |
| **THE MINISTRY OF INDUSTRY AND TRADE** | **SOCIALIST REPUBLIC OF VIET NAM****Independence – Freedom – Happiness** |  |
| No. 06/2018/TT-BCT | Hanoi, 20 April 2018 |  |

# CIRCULAR

**Detailing some contents regarding trade remedies**

详细说明若干贸易救济措施若干条款的通告

Pursuant to the Law on Foreign Trade Management dated 12 June 2017;

Pursuant to Decree No. 10/2018/ND-CP dated 15 January 2018 of the Government detailing a number of articles of the Law on Foreign Trade Management regarding trade remedies;

At the proposal of the Director General of the Trade Remedies Authority of Viet Nam;

The Minister of Industry and Trade promulgates the Circular detailing some contents regarding trade remedies.

根据2017年6月12日发布的《对外贸易管理法》，越南政府在2018年1月15日发布了详细说明《对外贸易管理法》若干贸易救济措施相关条款的第10/2018/ND-CP号法令。根据越南贸易救济局局长的建议，工贸部部长颁布了本通告，详细说明贸易救济措施的若干条款。

# Chapter I 第一章

# GENERAL PROVISIONS 总则

**Article 1. Scope of regulation**

**第1条 监管范围**

This Circular provides detailed regulations on interested parties in an investigation case; provision and collection of information and documents, and information confidentiality; languages used in investigation; management of imports subject to trade remedy investigations; exemption from trade remedies.

本通告对调查案件中的利害关系方、信息和文件的提交和收集、信息保密、调查中使用的语言、对贸易救济调查的进口产品的管理、贸易救济豁免等方面作出了详细规定。

# Article 2. Subjects of application

# 第2条 适用的主体

1. Regulatory bodies competent to investigate, apply and handle trade remedies.

有权调查、申请和处理贸易救济措施的监管机构。

1. Vietnamese traders, foreign traders, other domestic and foreign agencies, organisations and individuals relevant to the investigation, application and handling of trade remedies.

与贸易救济措施的调查、申请和处理有关的越南贸易商、外国贸易商、其他国内和国外机构、组织和个人。

# Article 3. Interpretation of terms

# 第3条 术语的解释

For the purpose of this Circular, the terms below are construed as follows:

本通告中相关术语的解释如下:

1. "Special products" refers to the products which have physical and chemical properties similar to but some characteristics, appearance or quality different from the like or directly competitive products manufactured by the domestic industry.

“特殊产品”是指与国内产业生产的同类产品或者直接竞争产品具有相似的物理、化学特性，但在特点、外观或质量方面有不同的产品。

1. "Non-confidential summary" refers to the summary of information upon the treatment of information as confidential by the investigating authority and which provides sufficient detail for the receiving parties to gain reasonable understanding of information submitted in confidence.

”非保密摘要”是指调查机关处理保密信息的摘要。摘要中提供充分的细节以方便接收方合理理解保密处理的信息。

# Article 4. Language used in trade remedy investigations

# 第4条 贸易救济调查中使用的语言

1. The statutory language used during the investigation for application of trade remedies is Vietnamese. Interested parties are entitled to speak and write in their mother tongues with the presence of accompanied interpreters/translators.

贸易救济调查的法定语言是越南语。利害关系方可在口译/笔译译员的陪同下，使用母语发言和书写。

1. Information and documents in other languages provided by interested parties must be translated into Vietnamese. Interested parties must ensure the truthfulness and accuracy and assume liability for the contents of such translations.

利害关系方提供的其他语言形式的资料和文件必须翻译成越南语。利害关系方必须保证译文的真实性和准确性，并对译文内容承担责任。

# Article 5. Registration as interested parties in a trade remedy investigation

# 第5条 登记为贸易救济调查利害关系人

1. After the Minister of Industry and Trade has issued a decision to conduct a trade remedy investigation or review the application of trade remedies, organisations and individuals prescribed in Clause 1 Article 74 of the Law on Foreign Trade Management may register to participate in a trade remedy investigation as interested parties.

在工贸部部长作出启动贸易救济调查或贸易救济复审的决定之后，《对外贸易管理法》第74条第1款规定的组织和个人可以作为利害关系方进行登记，参与贸易救济调查。

1. The investigating authority shall consider determining the time limit for registration as interested parties in each trade remedy investigation provided that it shall not be fewer than 20 working days from the effective date of the Decision on the initiation of an investigation or review of the application of trade remedies.

调查机关应确定在每次贸易救济调查中登记为利害关系方的登记截止日期。登记截止日期不得少于启动贸易救济调查或贸易救济复审的决定生效之日起20个工作日。

1. Organizations and individuals shall prepare applications using the application form for registration as interested parties provided in Annex 01 herein and send them to the investigating authority within the time limit specified in the Decision on the initiation of an investigation or review of the application of trade remedies.

有关组织和个人应填写本通告附件1规定的登记申请表，并在贸易调查的立案公告或贸易救济措施的复审决定所规定的时限内向调查机关提交申请表。

1. Upon the receipt of applications for registration as interested parties, the investigating authority shall consider whether a party is accepted as an interested party or not within a period of 07 working days. If an application for registration as an interested party is refused, the investigating authority is required to explain such refusal in writing to the applicant.

在收到登记为利害关系方的申请后，调查机关应在7个工作日内考虑是否接受当事方为利害关系方。如被拒绝，则调查机关应以书面形式向申请人解释拒绝登记申请的原因。

1. If an organisation or individual fails to register as an interested party within the time limit specified in Clause 2 of this Article, the investigating authority may refuse to accept that organisation or individual as an interested party of the case, except for cases prescribed in point a and point dd Clause 1 Article 74 of the Law on Foreign Trade Management and the Government and competent authorities of the exporting country of product subject to the countervailing duty investigation as prescribed in Point d Clause 1 Article 74 of the Law on Foreign Trade Management.

如果组织或者个人未能在本条第2款规定的期限内登记为利害关系方，调查机关可以拒绝接受该组织或者个人为案件的利害关系方，但《对外贸易管理法》第74条第1款第a项和第dd项规定的情况，以及《对外贸易管理法》第74条第1款规定的反补贴调查的产品的出口国政府和主管机关除外。

1. Organisations and individuals that are accepted as interested parties shall have rights and obligations as defined in Article 9 and Article 10 of Decree No. dated 15 January 2018 of the Government detailing a number of articles on the Law on Foreign Trade Management regarding trade remedies.

登记为利害关系方的组织和个人应享有政府于2018年1月15日颁布的规定了《对外贸易管理法》若干贸易救济相关条款细节的第10/2018/ND-CP号法令中第9条、第10条规定的权利和义务

# Article 6. Import declaration

# 第6条 进口申报

The import declaration included in the dossier for import of goods must be prepared using the form provided in Annex 02 herein.

进口申报必须使用本通告附件2中提供的表格。

**Chapter II**

**第二章**

**REGULATIONS ON PROVISION OF INFORMATION AND DOCUMENTS, AND CONFIDENTIALITY OF INFORMATION IN TRADE REMEDY INVESTIGATIONS**

**关于在贸易救济调查中提供信息和文件以及信息保密的规定**

**Article 7. Non-confidential information in a trade remedy investigation**

第7条 贸易救济调查中的非保密信息

Non-confidential summaries of the following information and documents are published in a trade remedy investigation:

贸易救济调查将公布下列信息和文件的非保密摘要:

1. The petition for investigation and application of trade remedies submitted by the requesting party and its accompanied annexes;

请求方提交的关于请求发起贸易救济调查和适用贸易救济措施的申请书及其附件;

1. Documents provided by interested parties when registering for participation in the investigation case;

利害关系方在登记参与调查时提供的文件;

1. Completed questionnaires and additional questionnaires provided by interested parties during the investigation;

利害关系方在调查期间的填写的问卷及补充问卷;

1. Other documents provided for the investigating authority by interested parties during the investigation, consisting of: documents serving the consultations; written opinions about the petition for investigation and application of trade remedies provided by interested parties;

利害关系方在调查期间向调查机关提供的其他文件，包括：磋商准备材料；对发起贸易救济调查和适用贸易救济措施的申请书的书面意见;

1. The record or summary of the consultation about the investigation case;

调查相关磋商记录或者摘要;

1. Notices issued by the investigating authority and the Ministry of Industry and Trade, including notices on the receipt of the petition for investigation and application of trade remedies, disclosures of preliminary and final determinations, notices of acceptance or non-acceptance of applications for registration as interested parties and questionnaires, on-site investigations, public consultations and limitation of the scope of investigation by sampling;

调查机关和工贸部发出的通知，包括关于收到启动调查和适用贸易救济措施的申请书的通知、关于披露初步和最终裁定的通知、关于是否接受有关方作为利害关系方登记的申请的通知，以及调查问卷、实地核查、公开磋商和抽样调查范围的限制;

1. Documents about contents of a trade remedy investigation which is used as the basis for final determinations of the investigating authority;

作为调查机关最终决定的依据的贸易救济调查内容的文件;

1. Other information verified and published by the investigating authority during the investigation.

调查机关在调查期间核实并披露的其他信息。

# Article 8. Request for protection of confidential information concerning a trade remedy investigation

# 第8条 贸易救济调查中对保密信息进行保护的请求

1. The investigating authority shall consider accepting the request for protection of confidential information provided by interested parties of a trade remedy investigation, including:

调查机关应考虑接受贸易救济调查的利害关系方提出的对以下信息进行保密的请求：

* 1. Business secrets related to the characteristics of some products or production process;

与某些产品或生产工艺的特性有关的商业秘密;

* 1. Information concerning the enterprise's production and business, including production costs, selling expenses, terms of sales other than the non-confidential ones, selling price of each transaction, estimated transaction or other offers for sale, information concerning clients, distributors or suppliers, and the enterprise's financial information;

有关企业生产经营的信息，包括生产成本、销售费用、非保密销售条款、每笔交易的销售价格、预期交易或者其他要约、客户、经销商或者供应商的相关信息以及企业的财务信息;

* 1. Information concerning an accurate dumping margin of a specific transaction in an anti-dumping investigation;

关于反倾销调查中特定交易的准确的倾销幅度的信息;

* 1. Information concerning interests received by the requesting party under a subsidy program to be investigated or reviewed in a trade remedy investigation, except for the program specification, amounts specified in documents or announced publicly, and the subsidy rate for each sales transaction which is calculated and allocable to the requesting party under a subsidy program;

关于请求方在将被调查或复审的补贴项目下获取的利益的相关信息，但该补贴项目的具体规定，相关文件或公告中规定的具体数额，以及该补贴项目计算并分配给请求方的每笔交易的补贴率除外。

dd) Other information which is found by the investigating authority to threaten to affect or cause material injury to the competitive advantage of the information provider if published.

(dd)调查机关认为如果公布可能会对信息提供者的竞争优势产生影响或造成实质性损害的其他信息。

1. In the case of refusal, the investigating authority shall explain the reasons for refusal in writing to the requesting party within 07 working days from the receipt of such request for protection of confidential information.

调查机关应在收到保护保密信息的请求后的07个工作日内，以书面形式向请求方解释拒绝申请的理由。

# Chapter III

# 第三章

# EXEMPTION FROM TRADE REMEDIES

# 贸易救济措施的豁免

# Section 1

# 第一部分

# SCOPE, SUBJECTS, CRITERIA AND CONSIDERATION PERIOD OF EXEMPTION FROM TRADE REMEDIES

# 豁免贸易救济措施的范围、主题、准则及考虑期限

**Article 9. Scope and period of exemption from trade remedies**

第9条 贸易救济豁免的范围和期限

1. The Minister of Industry and Trade shall consider granting exemptions from provisional and/or official trade remedies on certain imports subject to trade remedies in the following circumstances:

工贸部部长应考虑在下列情况下对贸易救济措施制裁的进口产品予以临时和/或正式贸易救济措施的豁免:

* 1. The imports have characteristics which are different from and not substitutable by the like or directly competitive products manufactured by the domestic industry;

进口产品具有与国产同类产品或直接竞争产品实质性不同

、不可替代的特点;

* 1. The imports are special goods of the like or directly competitive products manufactured by the domestic industry;

进口产品是国产同类产品或直接竞争产品的特殊产品;

* 1. There are no sales of the like or directly competitive products manufactured by the domestic industry in the ordinary course of trade in the domestic market;

国内市场的正常贸易不销售国产同类产品或直接竞争产品;

* 1. The volume of the like or directly competitive products manufactured by the domestic industry is not enough to satisfy the demand of the domestic market.

国产同类产品或直接竞争产品的产量不足以满足国内市场的需求。

1. The period of exemption from trade remedies shall be determined as follows:

应根据如下规定确定豁免贸易救济措施的期限:

* 1. Regarding the requests for exemption from trade remedies received by the investigating authority as prescribed in Clause 1 Article 13 herein, the exemption period shall last from the effective date of the decision on application of provisional or official trade remedies or the decision on the outcome of a review of trade remedies to 31 December of the year in which the exemption decision is made.

对于调查机关收到的根据本通告第13条第1款请提起的贸易救济豁免请求，豁免期应自关于适用临时或正式贸易救济措施的决定或关于贸易救济复审结果的决定生效之日起，至作出豁免决定的当年12月31日止。

* 1. Regarding the requests for exemption from trade remedies received by the investigating authority as prescribed in Clause 2 Article 13 herein, the exemption period shall last for 01 year from 01 January to 31 December of the following year.

对于调查机关收到的根据本通告第13条第2款请提起的贸易救济豁免请求，豁免期为次年的1月1日起至12月31日止。

* 1. Regarding the requests for additional exemption received by the investigating authority as prescribed in Clause 4 Article 13 herein, the exemption period shall last from the date of receipt of the valid and sufficient exemption request to 31 December of the year in which the exemption decision is made.

对于调查机关收到的根据本通告第13条第4款请提起的额外豁免请求，豁免期应从收到有效和充分的豁免请求之日起至作出豁免决定当年的12月31日止。

# Article 10. Entities requesting exemption from trade remedies

# 第10条.请求豁免贸易救济的实体

The following entities may submit requests for exemption from trade remedies:

下列实体可请求贸易救济的豁免:

1. Importers of products subject to trade remedy investigations;

受贸易救济调查的产品的进口商;

1. Users of products subject to trade remedy investigations;

受贸易救济调查的产品的用户;

1. Other organisations and individuals as decided by the Minister of Industry and Trade.

工贸部决定的其他组织和个人。

# Article 11. Criteria and form of granting exemption from trade remedies

# 第11条.准许贸易救济豁免的标准和形式

1. The Minister of Industry and Trade shall consider and decide to grant exemption from trade remedies on products in the circumstances prescribed in Clause 1 Article 9 herein on the basis of evaluation reports submitted by the investigating authority.

工贸部部长应根据调查机关提交的评估报告，考虑并决定符合第9条第1款规定的产品是否给予贸易救济豁免。

1. The investigating authority shall consider and evaluate every request for product exemption from trade remedies according to the following criteria:

调查机关应根据下列标准审议和评估贸易救济的每一项豁免请求：

* 1. The trade name, physical properties and chemical properties of the product for which exemption is requested so as to distinguish it and the product subject to the trade remedies;

请求豁免的产品的商品名称、物理特性和化学特性，以便将其与受贸易救济措施制裁的产品区分开来;

* 1. Technical standards of the product for which exemption is requested;

请求豁免的产品的技术标准;

* 1. The quality of the product for which exemption is requested;

请求豁免的产品的质量;

* 1. The purposes of the product for which exemption is requested;

请求豁免的产品的用途;

dd) The domestic industry capacity to produce the products that are like or directly competitive with the product for which exemption is requested;

需要提供国内产业对申请豁免产品的同类产品或直接竞争产品的生产能力;

* 1. The availability of the like or directly competitive products manufactured by the domestic industry to substitute the product for which exemption is requested;

可替代请求豁免的产品的国产同类产品或直接竞争产品的供应情况;

g) Other criteria as decided by the Minister of Industry and Trade.

工贸部部长决定的其他标准。

1. Organizations and individuals are exempted from trade remedies according to the volume and quantity of their imports.

组织和个人可根据其进口总量和数量获得贸易救济的豁免。

# Section 2

# 第二部分

# REQUESTING, INSPECTING AND REVOKING EXEMPTIONS FROM TRADE REMEDIES

# 贸易救济豁免的请求、检查和撤销

**Article 12. Request for exemption from trade remedies**

第12条 贸易救济请求的豁免

1. The initial request for exemption from trade remedies (hereinafter referred to as the "exemption request") includes:

贸易救济豁免的初次请求（以下简称”豁免请求”）材料包括：

* 1. The written request for exemption from trade remedies made according to the form provided in Annex 03 herein;

根据本通告附件03所提供的表格书写的贸易救济豁免书面申请;

* 1. The copy of the enterprise's certificate of business registration or investment registration;

企业的商业登记或者投资登记证明复印件;

* 1. The document stating specifications of the imported product for which exemption is requested, consisting of: scientific name, trade name, common name; basic physical and chemical properties; main purposes; production process; applicable international and domestic standards and/or regulations; HS code and import duties applied in each period;

申请豁免的进口产品说明书，包括:产品名称、商品名和通用名;产品的基本物理和化学特性；产品的主要用途; 产品的制造工艺;产品适用的国际和越南标准和法律法规;产品的海关编码（HS code）和每个时期适用的进口税率;

* 1. The document stating information about the volume, quantity and value of imported product for which exemption is requested (normally, for the past three years and in the current year);

申请豁免的进口产品的总量、数量及价值的相关信息文件(通常为过去三年及本年度的数据信息);

dd) The written production process of the product of which input materials are the products for which exemption is requested (if any);

以申请豁免的产品为原材料的产品的书面生产工艺(如有的话);

* 1. The demand for consumption or use of the imported product for which exemption is requested (normally, for the past three years and in the current year);

申请豁免的进口产品的消费或使用需求(通常为过去三年及本年度的数据信息);

1. The consumption standard of raw materials which are the products for which exemption is requested;

作为原材料的申请豁免产品的消费标准;

1. Documents or samples proving the distinctions between the product for which exemption is requested and the imported product subject to a trade remedy.

证明申请豁免产品与受贸易救济措施制裁的进口产品之间的区别的文件或样本。

1. If an organisation or individual submits the additional request for exemption to the investigating authority as prescribed in Clause 4 Article 13 herein, the additional request for exemption includes:

组织或者个人依照本通告第13条第4款的规定向调查机关提出的额外豁免请求包括:

* 1. The written request for (additional) exemption from trade remedies made according to the form provided in the Annex 03 herein;

根据本通告附件03所提供的表格提出的贸易救济(附加)豁免的书面请求;

* 1. The document stating information about the volume, quantity and value of the imported product for which additional exemption is requested;

申请额外豁免的进口产品的总量、数量和价值的说明文件;

* 1. Evidences and documents proving that the additional request for exemption is compliant with legal provisions on exemption from trade remedies;

证明额外豁免请求符合贸易救济豁免的法律规定的证据和文件;

* 1. Other documents and materials supporting the additional request for exemption.

支持额外豁免请求的其他文件和材料。

1. Based on the initial or additional request for exemption, the investigating authority shall consider, verify and request the Minister of Industry and Trade to make the decision on the granting of initial or additional exemption from trade remedies.

调查机关应考虑、核实初次或额外的豁免请求，并请工贸部部长就是否给予初次或额外豁免作出决定。

# Article 13. Notice of acceptance of exemption requests

# 第13条 接收豁免请求的通知

1. The investigating authority shall officially notify the receipt of exemption requests after the Minister of Industry and Trade makes the decision on application of provisional or official trade remedies, or the decision on the outcome of review of trade remedies.

在工贸部部长就适用临时或正式贸易救济措施的申请或是就贸易救济复审结果作出决定之后，调查机关应正式公告其收到了豁免请求。

1. With respect to safeguard measures, the investigating authority shall annually give the official notice of receipt of exemption requests in October. The investigating authority must send the notice of any changes in the safeguard measures to the requesters for exemption in a timely manner so that they can formulate their own suitable business plans.

对于保障措施，调查机关应于每年10月正式开始接收豁免请求的通知。调查机关应当及时通知申请人保障措施的变更，使其能够制定适合自己的经营计划。

1. Within 30 days from the date on which the investigating authority notifies the receipt of exemption requests, the organizations and individuals must submit exemption requests as prescribed in Article 12 herein to the investigating authority, excluding the case specified in Article 4 of this Article.

有关组织和个人应该在调查机关通知收到豁免请求之日起30天内向调查机关提起本通告第12条规定的豁免请求，但本通告第4条规定的情况除外。

1. An organisation or individual that wishes to request exemption of a particular product in addition to the products specified in the decision on granting exemption of products from trade remedies within the exemption period must submit the additional request for exemption to the investigating authority.

组织或个人如果希望在豁免期内申请豁免已获豁免的产品之外的另一特定产品，则应向调查机关提出额外的豁免请求。

1. Within 15 working days from the receipt of the request for further information or documents from the investigating authority, the parties requesting for exemption is liable to provide sufficient and accurate documents as requested.

豁免申请方应在收到调查机关要求提供进一步资料或文件的通知后的15个工作日内按要求提供充分和准确的文件。

# Article 14. Contents of a decision on granting of exemption from trade remedies

# 第14条 给予贸易救济豁免的决定的内容

1. Name of the organisation or individual that is exempted from trade remedies;

获得贸易救济豁免的机构或个人的名称;

1. Specifications of the imported products which are exempted from trade remedies;

获得贸易救济豁免的进口产品的产品说明;

1. The volume and quantity of the imported products which are exempted from trade remedies;

获得贸易救济豁免的进口产品的总量和数量;

1. Exemption period, terms and obligations of the organisation or individual that is exempted from trade remedies.

获得贸易救济豁免的组织或个人的豁免期、豁免条款和义务。

# Article 15. Refund of trade remedy duties

# 第15条 退还贸易救济税

1. In the case where the imported product is exempted from trade remedies, the trade remedy duties charged on the shipments for which customs declarations have been submitted within the exemption period will be refunded.

如进口产品获得贸易救济豁免，则在豁免期内已提交报关单的货物所缴付的贸易救济税会获退还。

1. Procedures for claiming refunds of trade remedy duties prescribed in Clause 1 of this Article shall be carried out in accordance with applicable legal provisions.

本条第1款规定的退还贸易救济税的程序应按照相关的法律规定执行。

# Article 16. Periodical reports

# 第16条 定期报告

Every 06 months within the exemption period, the organisation or individual that is exempted from trade remedies is required to submit reports on the import of products exempted from trade remedies and its compliance with terms and obligations of exemption to the investigating authority, using the form prescribed in Annex 04 herein.

在豁免期内，获得贸易救济豁免的机构或个人应每06个月向调查机关提交报告，说明获得贸易救济豁免的产品的进口情况及其遵守豁免条款和义务的情况，报告格式载于附件04。

# Article 17. Post-exemption inspection

# 第17条 豁免后检查

1. The post-exemption inspection shall be conducted by adopting risk management method as regulated by law to determine the subjects, scope and contents of inspection of approved exemption requests.

豁免后的检查应当采用法律规定的风险管理方法，确定经批准的豁免请求的检查主体、范围和内容。

1. The post-exemption inspection is aimed to appraise the compliance by the holders of approved exemption requests with terms and legal provisions on exemption from trade remedies.

豁免后检查的目的是评估贸易救济豁免的获得者遵守豁免条款和法律规定的情况。

1. Contents of a post-exemption inspection include:

豁免后检查包括下列内容:

* 1. Examination and verification of the legal status of the organization or individual granted exemption;

获得贸易救济豁免的机构或个人的法律地位的审查及核查;

* 1. Examination and verification the accuracy of the product exempted from trade remedies according to the exemption request submitted to the investigating authority;

根据向调查机关提交的豁免请求，审查并核实获得贸易救济豁免的产品的准确性;

* 1. Examination of the adequacy, legality and validity of customs declarations, accounting records, financial statements, documentation and data relating the imported product exempted from trade remedies;

审查获得贸易救济豁免的进口产品的有关报关单、会计记录、财务报表、与进口相关的文件和数据是否充分、合法且有效;

* 1. Examination of the compliance with terms and obligations of the party requesting for exemption as specified in the exemption decision.

审查获得贸易救济豁免的一方是否遵守豁免决定中规定的条款和义务。

# Article 18. Conducting post-exemption inspection

# 第十八条 豁免后进行的检查

1. At the request of the investigating authority, Minister of Industry and Trade shall decide on inspection and establishment of inspection team. The head of the inspection team must be an official of the investigating authority. The inspection team shall conduct the inspection according to the scope, time limit and contents specified in the decision on establishment of the inspection team.

根据调查机关的要求，由工贸部部长作出检查决定，并设立检查小组。检查小组组长必须是调查机关的官员。检查小组应当遵循设立检查小组的决定规定的范围、期限和内容进行检验。

1. The investigating authority shall send written notices of the decision and plan on post-exemption inspection to organisations and individuals exempted from trade remedies at least 05 working days before the inspection date.

调查机关应在核查日期前至少05个工作日向获得贸易救济豁免的组织和个人发出豁免后检查的书面通知。

1. While conducting an inspection, the investigating authority is entitled to verify by requesting organisations and/or individuals that are related or are able to assist in clarifying issues, unreasonable contents or signs of violating the law. Such verification includes:

检查过程中，调查机关有权要求相关方或有能力协助澄清争议、不合理内容或违法迹象的组织和/或个人核查下列事项:

* 1. Subjects of verification being regulatory bodies, relevant organisations and individuals.

核查对象为监管机构、有关组织和个人。

* 1. Forms of verification including sending written requests; or appointing officials to directly communicate the subjects of verification according to the letter of introduction of the investigating authority.

核查形式包括发送书面请求，或直接任命官员根据调查机关的介绍信直接通报核查对象。

* 1. Verification results shall be fully recorded; this record shall be used as the basis for examining the case.

核查结果应全程记录，并以此记录作为审查依据。

1. The inspected organisation or individual shall appoint its/his/her representative and relevant officers to provide documents and papers as requested and directly work with the inspection team.

被检查的组织或者个人应当指定其代表和有关人员按照要求提供文件和资料，并直接与检查小组合作。

# Article 19. Post-exemption inspection results

# 第19条.豁免后检查的结果

1. The inspection team shall make the inspection report immediately after completing the inspection, report inspection results to the inspecting agency and notify them to the inspected organisation or individual.

检查小组完成检查后，应当立即作出检查报告将结果报告给检查机构，并将检查结果通知被检查的机构或者个人。

1. Depending on the degree of violation specified in the inspection report, the inspection team shall suggest the inspecting agency to handle or revoke the exemption decision or transfer the case to competent authorities for consideration in accordance with legal provisions.

根据检查报告查明的违规程度，检查小组应当建议检查机构处理或者撤销豁免决定，或者依照法律规定移交主管机关审理。

1. If inspection findings are made as prescribed in Clause 2 of this Article, the head of the inspection team shall send the inspection findings draft to the inspected organisation or individual. Within 05 working days from the receipt of the draft inspection findings, the inspected organisation or individual shall provide a written response (accompanied by written explanation and documentary evidences) if dissenting from such inspection findings.

依照本条第2款的规定得出检查结果的，检查小组组长应当将检查结果的草案送交被检查的组织或者个人。被检查的组织或者个人对检查结果有异议的，应当在收到检查结果草案后的05个工作日内提交书面答复(附有书面解释和文件证据)。

1. If the time limit specified in Clause 3 of this Article lapsed, if the inspected organisation or individual provides no response, it is considered to have assented to the inspection findings.

如果被检查的组织或者个人未在本条第3款规定的时限内答复，则视为其同意检查结果。

1. After the period for response, the inspection team shall:

答复期结束后，检查小组应当采取下列行动:

* 1. Consider the explanation sent by the inspected organisation or individual or work with its/his/her representative if there are matters of disagreement or requiring clarification.

如果有不分歧或亟待澄清，则应考虑被检查的组织或者个人提供的解释，或与其代表讨论协作。

* 1. In cases where professional or technical advices are required or where the inspection team does not have reasonable grounds for making inspection findings, the inspection findings shall be issued after obtaining advices from specialised agencies or units.

如果需要专业或技术意见，或检查小组缺乏合理理由得出检查结果，则检查结果应在获得专门机构或单位的意见后发布。

# Article 20. Revocation of exemption decision

# 第20条 豁免决定的撤销

1. The Minister of Industry and Trade shall revoke exemption decisions in the following cases:

在下列情况下，工贸部长应撤销豁免决定:

* 1. The imported product exempted from trade remedies is used for the wrong purpose;

请求人错误使用获得贸易救济豁免的进口产品;

* 1. Fraudulent request for exemption from trade remedies is submitted;

请求人以欺诈手段提出贸易救济豁免请求;

* 1. Provisions, terms and obligations specified in the exemption decision are not properly complied with or fulfilled;

请求人未遵循豁免决定中规定的条款、履行其中规定的义务；

* 1. The eligibility requirements for exemption are not satisfied.

不符合豁免资格规定。

1. The organisation or individual has the exemption decision revoked must pay duties on imports as regulated by law.

被撤销豁免决定的组织或者个人必须依法缴纳进口关税。

# Chapter IV

# 第四章

# IMPLEMENTATION PROVISIONS

# 实施规定

**Article 21. Responsibility of investigating authority**

第21条.调查机关的责任

1. Before issuing any decision on application of official anti-dumping or countervailing measures, the investigating authority must notify and get opinions about the draft investigation determinations to the requesting party and the requested party.

在作出适用正式反倾销或反补贴措施的决定之前，调查机关必须将调查决定的草案通知给请求方和被请求方并征求其意见。

1. The investigating authority shall:

调查机关应采取下列行动:

* 1. Send exemption decisions to parties requesting for exemption;

向提出请求的一方送交豁免决定;

* 1. Send decisions on revocation of exemption decision to organisations or individuals granted exemption from trade remedies;

向获得贸易救济豁免的组织或个人送交撤销豁免决议的决定;

* 1. Send written exemption decisions and decisions on revocation of exemption decision to the Ministry of Finance and the General Department of Customs;

向财政部和海关总署送交书面的豁免决定和撤销豁免决议的决定;

* 1. Publish exemption decisions and decisions on revocation of exemption decision on its website and the website of the Ministry of Industry and Trade.

在调查机关网站和工贸部网站上公布豁免决定和撤销豁免决议的决定。

# Article 22. Entry into force

# 第22条. 生效

1. This Circular comes into force from 15 June 2018.

本通告自2018年6月15日起生效。

1. Difficulties that arise during the implementation of this Circular should be reported to the investigating authority and the Ministry of Industry and Trade for consideration and resolution./.

对于执行本通告过程中出现的困难，应向调查机关和工业贸易部报告，以供其参考和解决。

# MINISTER 部长

**Tran Tuan Anh**

**Annex 01: Request for registration as a related party in a trade remedy case**

**附录1. 贸易救济案件中利害关系方的登记申请**

*(Issued with Circular No. 06/2018/TT-BCT dated 20 April 2018 of the Minister of Industry and Trade detailing some contents regarding trade remedies)*

(与2018年4月20日工贸部部长第06/2018/TT-BCT号《详细说明若干贸易救济措施若干条款的通告》同时发布)

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| **MINISTRY OF INDUSTRY AND TRADE****--------------** | **SOCIALIST REPUBLIC OF VIET NAM****Independence – Freedom- Happiness****---------------------***Hanoi, ………………………* |

# REQUEST FOR REGISTRATION

**AS A RELATED PARTY IN TRADE REMEDY INVESTIGATION**

贸易救济案件中利害关系方的登记申请

Case name: 案件名称.............................................................................................

Case code: 案件编号..............................................................................................

Respectfully to: The Director General of the Trade Remedies Authority of Viet Nam –

Ministry of Industry and Trade

敬致: 越南工业和贸易部贸易救济管理局局长

My name is: …………………………………………………………………………………………………………………………………………… Title:………………………………………………………………………………………………………………………………………………………… Enterprise, unit: …………………………………………………………………………………………………………………………………….. Subject:1 ………………………………………………………………………………………………………………………………………………… Address: …………………………………………………………………………………………………………………………………………………. Phone number: ……………………………………………………………………………………………………………………………………… Fax: ………………………………………………………………………………………………………………………………………………………… Email: ……………………………………………………………………………………………………………………………………………………..

我的名字是……，在……公司的……部门担任……职务；

主题：请说明公司是何身份？比如：案件的申请方、被申请方、进口商、外国出口商等；

联系方式：地址、电话、传真、电邮；

registering to participate as a related party of the abovementioned trade remedy investigation, would like to request the Investigation authority to consider approving such registration.

注册为上述贸易救济调查的关联方，请求调查机关考虑批准此注册申请。

I do not have a legal representative

我没有聘请法律代表

Or或

My legal representative is

我聘请的法律代表是：

..................................................................................................................................

Address地址: 2

..................................................................................................................................

# Submitter 提交人

*(sign, seal and indicate full name)*

*签字、盖章并列出姓名全名*

1 Please specify in accordance with clause 1 Article 74 of the Law on Foreign Trade Management (for example: Requesting party, Requested party, Importer, Foreign exporter, etc.)

请根据《对外贸易管理法》第74条第1款规定(例如: 申请方、被申请方、进口商、外国出口商等)

2 For registration cases that engage law firms. 适用于聘请律所应诉的情形。

# Annex 02: Import declaration

# 附录2. 进口申报

*(Issued with Circular No. 06/2018/TT-BCT dated 20 April 2018 of the Minister of Industry and Trade detailing some contents regarding trade remedies)*

(与2018年4月20日工贸部部长第06/2018/TT-BCT号《详细说明若干贸易救济措施若干条款的通告》同时发布

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| **TRADER NAME****---------------**No:Regarding import declaration for [1] | **SOCIALIST REPUBLIC OF VIET NAM****Independence – Freedom- Happiness****---------------------***…………, ………………………* |

# IMPORT DECLARATION

# 进口申报

Respectfully to: Trade Remedies Authority of Viet Nam – Ministry of Industry and Trade

敬致: 越南贸易救济管理局——工业和贸易部

* Name of manufacturing or importing organisation, individual of the product under investigation:
* - 被调查产品的制造或进口机构名称、个人姓名:

..........................................................................................................................................

- Address地址: ..........................................................................................................................

- Phone number电话号码: .............................. Fax传真: ............................. Email邮箱: ...................................

- ERC/BRC/IC:2 ...................................................................................................................

- Name of the legal representative法律代表的姓名: ......................................

Position职务: ...................................

- Form of operation运营方式:........................................................................................................

Requests the Trade Remedies Authority of Viet Nam – Ministry of Industry and Trade to confirm the import declaration of the product(s) under investigation pursuant to Decision No. ………/QD-BCT dated …………………… of the Minister of Industry and Trade on the initiation of investigation on ……………… and Decree No. 10/2018/ND-CP dated 15 January 2018 detailing a number of articles of the Law on Foreign Trade Management on trade remedies, specifically regarding the following batch(es):

请求越南贸易救济管理局——工业和贸易部根据部长关于启动……调查的第…… / QD-BCT 号决定和2018年1月15日《详细说明<对外贸易管理法>中有关贸易救济措施的若干条款的第10/2018/ND-CP号法令》确认正在调查的产品的进口申报:

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| No. | Product name | HS Code (8 digits) | Trade name | Exporting country | Country of origin | Import purpose(s) | Quantity, weight (Unit) | Value (USD) |
| 序号 | 产品名称 | HS编码 | 贸易名称 | 出口国别 | 原产国 | 进口目的 | 数量，重量（单位） | 金额（美元） |
| 1 | … | … |  |  |  |  | … | … |
| 2 | … | … |  |  |  |  | … | … |
| … | … | … |  |  |  |  | … | … |

* Import contract No. ……………... dated …………………
* 进口合同编号……日期……
* Commercial invoice No. ……………… dated ………………
* 商业发票编号……日期……
* Quality certificate (or equivalent document(s) issued by the manufacturer): …………
* 质量证书（或生产商出具的同类文件）：……

- Total volume/weight: …………………………………………………………………………

- 总量/重量：……

- Total value (USD): …………………………………………………………………………

- 总金额（美元）：……

*(Convert into USD if payment is in other foreign currency)*

 (如果付款使用其他外币，请转换为 USD)

- Import port: ……………………………………………………………………………

- 进口港口：……

*(Indicate if importing from a non-tariff area)*

*(如从非关税区域进口，请注明)*

- Proposed date of import procedures: …………………………………………………………

*(Indicate from ……………… to ………………)*

- 进口手续的预计日期……（请指出从……至……）

1 Product under investigation as described in the Decision to initiate investigation of the Ministry of Industry and Trade.

1 工贸部立案决定中描述的被调查产品。

2 Enterprise Registration Certificate/Business Registration Certificate/Investment Certificate

 企业登记证 / 商业登记证 / 投资证明书

I commit that all of the above-declared information is true and sufficient and understand that these imports may be subject to trade remedies applied retrospectively pursuant to Article 45 of Decree No. 10/2018/ND-CP dated 15 January 2018 detailing a number of articles of the Law on Foreign Trade Management on trade remedies./.

我承诺所有上述申报的信息都是真实和充分的，并理解这些进口可能受到根据2018年1月15日《详细说明<对外贸易管理法>中有关贸易救济措施的若干条款的第10/2018/ND-CP号法令》第45条追溯适用的贸易补救措施的约束。

……….., …………………….

# HEAD OF THE DECLARING PARTY

(Sign, indicate full name, title and seal)

申报方的负责人

（签字，请指出全名、职务，并盖章）

# Annex 03: Request for exemption from trade remedies

# 附录3. 贸易救济的豁免申请

*(Issued with Circular No. 06/2018/TT-BCT dated 20 April 2018 of the Minister of Industry and Trade detailing some contents regarding trade remedies)*

(与2018年4月20日工贸部部长第06/2018/TT-BCT号《详细说明若干贸易救济措施若干条款的通告》同时发布

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| **MINISTRY OF INDUSTRY AND TRADE****--------------** | **SOCIALIST REPUBLIC OF VIET NAM****Independence – Freedom- Happiness****---------------------***Hanoi, ………………………* |

# REQUEST

**FOR EXEMPTION FROM TRADE REMEDIES**

**Case: (Anti-dumping, Anti-subsidy, Safeguard)**

案件类型：（反倾销、反补贴、保障）

**Case code:**

案件编号：

**Request:1 (first request, supplement)**

请求：（首次申请，或补充材料）

* 1. **INFORMATION ON ORGANISATION, INDIVIDUAL REQUESTING EXEMPTION**
1. ENTERPRISE NAME: 公司名称：…………………………………………………
2. ERC/BRC/IC2 information: ………………………………………………
3. Abbreviated name (if any) 名称的简写（如有）: …………………………………………
4. Address 地址: …………………………………………………………………………

Phone number 电话: ……………………………

Email 电邮: ………………………………………………………………………

Contact person 联系人: ……………………………

Mobile phone 手机号码: …………………………………………………………………

1. LEGAL REPRESENTATIVE (IF ANY)

 法律代表（如有）

..........................................................................................................................................

1. FIELD OF PRODUCTION, BUSINESS 生产和业务领域

Form of operation of the enterprise: (manufacturing, commercial trading, importing, using the product(s) in question to manufacture other product(s), etc.)

 企业经营形式: (制造、商业贸易、进口、使用有关产品生产其他产品等)

# INFORMATION ON IMPORTED GOODS UNDER THE EXEMPTION REQUEST

# 根据豁免要求儿提供的进口货物的信息

1. NAME AND FULL DESCRIPTION OF THE PRODUCT UNDER THE EXEMPTION REQUEST

豁免要求下的产品名称及详细描述

..........................................................................................................................................

1. PROVIDE DETAILED INFORMATION ON THE PRODUCT UNDER THE EXEMPTION REQUEST ACCORDING TO THE FOLLOWING TABLE

 根据豁免要求提供有关产品的详细资料如下:

(Please provide available documents with clarifying descriptions)

 (请提供能够说明描述的文件)

1. For supplementing request, information in Section II.2 needs not be provided.

对于补充请求，不需要提供第 II. 2节中的资料。

2 Enterprise Registration Certificate/Business Registration Certificate/Investment Certificate

 企业登记证 / 商业登记证 / 投资证明书

# First product under the exemption request:

要求豁免的第一种产品**:**

HS Code classification ：HS分类编码:

|  |  |  |  |
| --- | --- | --- | --- |
| Property信息类型 | Product under the exemption request申请排除的产品 | Like product, directly competitive product manufactured domestically (or specify if there is no domestic manufacturing)国产的同类产品 | Quantify distinctions between the product under the exemption request and like or directly competitive product国产与进口产品的差异 |
| Physical properties物理特征 |  |  |  |
| Chemical components化学成分 |  |  |  |
| Size 体积 |  |  |  |
| Technical specifications技术标准 |  |  |  |
| Quality 质量 |  |  |  |
| Usage 用途 |  |  |  |
| Market segment市场细分 |  |  |  |
| End user 最终用户 |  |  |  |
| Other 其他 |  |  |  |

* 1. **Second, third, etc. product under the exemption request** (please provide information similar to section 2.1)

 申请豁免的第二、第三种产品(请提供与第2.1条类似的资料)

# REASONS FOR THE EXEMPTION REQUEST 申请豁免的理由

*Please detail the bases and reasons for the enterprise's request to the Investigation authority for exemption from trade remedies for the imported products in question.*

 请详细说明企业请求调查机关豁免有关进口产品的贸易补救措施的依据和理由。

# INFORMATION ON THE AMOUNT AND VALUE OF IMPORT 进口数量及价值资料

*Please provide information on the import amount and value for the product(s) under the exemption request in the recent 03 years according to the following form:*

请按以下表格提供最近03年豁免申请所涉产品的进口数量及价值资料:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Country of origin under investigation, subject to measures: 被调查国 | Year 01第1年 | Year 02第2年 | Year 03第3年 | Current year今年 |
| Amount (unit) 数量（单位） |  |  |  |  |
| Value (unit) 金额（单位） |  |  |  |  |
| Unit price (unit) 单价（单位） |  |  |  |  |

*Please specify if the enterprise wants to keep the information, data provided under this section confidential.*

请说明企业是否希望对本节所提供的信息和数据保密。

# WEIGHT, AMOUNT UNDER THE EXEMPTION REQUEST

# 申请豁免的重量、金额

*Please specify the weight, amount under the exemption request and the bases for such weight, amount.*

 请注明申请豁免的重量、数量以及重量和数量的依据。

# MATERIALS, INFORMATION CLARIFYING PRODUCT DESCRIPTION ATTACHED WITH THE REQUEST

 随要求附上的澄清产品说明的材料和信息

* 1. Documents proving the distinctions (on physical/chemical properties, product surface, etc.) between goods under the exemption request and the like or directly competitive goods produced domestically;

证明申请豁免的产品与同类产品或直接竞争的本地生产的产品之间(有关物理 / 化学特性、产品表面等)区别的文件;

* 1. Documents on production capacity of goods using inputs which are the goods under the exemption request;

 使用申请豁免的产品为原材料所生产成品的产能的文件;

* 1. Documents on the import volume and import value of the goods under the exemption request in the last 3 years;

申请豁免的进口货物在过去3年的进口量和进口价值的文件;

* 1. Other documents (if any). 其他文件（如有）。

# COMMITMENTS 承诺

The undersigned (legal representative of the enterprise) commits that the abovementioned information is adequate and accurate and understands that the information will be examined and verified by the Investigation Authority.

下列签名人(企业的法定代表人)承诺上述信息是充分和准确的，并理解这些信息将由调查机关审查和核实。

I am willing to accept that the Investigation Authority may conduct on-site examination to verify the information provided in this Request. If the Investigation Authority – Ministry of Industry and Trade discovers violations, the enterprise shall bear full responsibility before the law and be subject to retrospective collection of exempted import tax amounts pursuant to provisions of the law./.

本人愿意接受调查机关进行现场核查，以核实本请求中提供的资料。 调查机关——工业贸易部如发现违法行为，企业依法承担全部责任，依照法律规定追溯征收免税进口的税款。

# REPRESENTATIVE OF THE ENTERPRISE

*(sign, seal and indicate full name, title)*

企业代表

（签字、盖章，并指出全名和职务）

# Annex 04: Report on the import status of exempted goods

# 附录4. 免税产品进口状态的报告

*(Issued with Circular No. 06/2018/TT-BCT dated 20 April of the Minister of Industry and Trade detailing some contents on trade remedies)*

(与2018年4月20日工贸部部长第06/2018/TT-BCT号《详细说明若干贸易救济措施若干条款的通告》同时发布

*------------------------------*

|  |  |
| --- | --- |
| **TRADER NAME****-------** | **SOCIALIST REPUBLIC OF VIET NAM****Independence – Freedom - Happiness****---------------** |
|  | No. *…………, …………….* |

# REPORT ON THE IMPORT STATUS OF EXEMPTED GOODS

# 免税产品进口状态的报告

Respectfully to: Trade Remedies Authority of Viet Nam – Ministry of Industry and Trade

敬致: 越南工业和贸易部 - 贸易救济管理局

Pursuant to Circular No. 06/2018/TT-BCT dated 20 April 2018 of the Minister of Industry and Trade stipulating cases of exemption from trade remedies and Decision No. ----/QD-BCT dated ………. of the Ministry of Industry and Trade on exemption from trade remedies for importing enterprises, the enterprise reports about its imports as follows:

根据工贸部部长2018年4月20日发布的第06/2018/TT-BCT号规定了豁免贸易补救措施的通知，并于……日作出的第----/QD-BCT号让进口企业豁免贸易救济措施的规定，企业的进口情况报告如下:

# Enterprise information: 企业信息

Enterprise name 企业名称:： ……………………………………………………………………

Address 地址:………………………………………………………………………………

Contact person 联系人:……………………………………………………………

Position 职务: …………….Email电邮: ………………………….Tel电话: ……………………

1. **Reporting period**: 汇报期间： from从 ……………….. to至 ……………

# Import data 进口数据

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Item name产品名称 | HS code (8 digits) HS编码（8位数） | Custom declaration number清关单号 | Quantity/weight重量 | Price (USD)美元价格 | Cumulative import quantity to the reporting time 至申报时的累积进口数量 | Cumulative import values to the reporting time (USD)累计进口金额 | Import port进口港口 | Country of origin原产国 |
|  |  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |  |

The undersigned person commits that all information provided in this Report on import status of exempted goods is adequate and accurate and understands that the Investigation authority may inspect pursuant to regulations./.

下列签署人承诺，本报告中提供的关于产品豁免进口状况的所有信息是充分和准确的，并明白调查机关可根据条例进行检查。

*………, …………*

# REPRESENTATIVE OF THE ENTERPRISE

*(sign, seal, indicate full name)*

企业代表

（签字、盖章，请提供姓名全拼）