

# **WORLD TRADE ORGANIZATION**

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**Committee on Anti-Dumping Practices**

Original: English

## **NOTIFICATION OF LAWS AND REGULATIONS UNDER ARTICLE 18.5 OF THE AGREEMENT ON IMPLEMENTATION OF ARTICLE VI OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994**

VIETNAM

The following communication, dated 28 August 2009, is being circulated at the request of the Delegation of Vietnam.

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According to the Article 18.5 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, the Permanent Mission of the Socialist Republic of Viet Nam to the United Nations Office, the World Trade Organization and Other International Organizations at Geneva hereby notifies to the Committee on Anti-Dumping Practice as follows:

1. By the date of WTO's accession, the Socialist Republic of Viet Nam (Viet Nam) had notified a number of legal documents on anti-dumping including the Ordinance No. 20/2004/PL-UBTVQH11 dated April 29, 2004 on against dumping of imported goods into Viet Nam; Decree No. 90/2005/ND-CP dated 11 July 2005 on making detailed provisions for implementation of Ordinance on against dumping of imported goods into Viet Nam (please see details in Annex 1 of the Report of the Working Party on the Viet Nam's accession to the WTO, document WT/ACC/VNM/48).
2. For the sake of transparency, we would like to re-notify these legal documents to the Committee on Anti-dumping Practice and Centre Registration of Notification (CRN).
3. Viet Nam wants to remind the Committee that these legal documents have not been changed or amended until now.

Attached to this Notification are the English versions of the Ordinance No. 20/2004/PL-UBTVQH11 and Decree No. 90/2005/ND-CP.

STANDING COMMITTEE  
OF NATIONAL ASSEMBLY

**SOCIALIST REPUBLIC OF VIETNAM**  
Independence - Freedom - Happiness

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No. 20/2004/PL-UBTVQH11

Hanoi, 29 April 2004

## **ORDINANCE**

### **AGAINST DUMPING OF IMPORTED GOODS INTO VIETNAM**

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam as amended and added to by Resolution 51-2001-QH10 dated 25 December 2001 of Legislature X of the National Assembly at its 10th Session;

Pursuant to the Law on Export and Import Duties dated 26 December 1991 as amended by the Law on Amendments and Additions to the Law on Export and Import Duties dated 5 July 1993 and by the Law on Amendments and Additions to the Law on Export and Import Duties dated 20 May 1998;

Pursuant to Resolution No. 21-2003-QH11 dated 26 November 2003 of Legislature XI of the National Assembly at its 4th Session on the program for formulation of laws and ordinances in year 2004;

This Ordinance regulates anti-dumping applicable to goods imported into Vietnam.

## **CHAPTER I**

### **GENERAL PROVISIONS**

#### **Article 1. Governing scope**

This Ordinance regulates anti-dumping measures; procedures and contents of an investigation in order to apply such measures, and the applicability of such measures to dumped imports in Vietnam.

#### **Article 2. Interpretation of terms**

In this Ordinance, the following terms are construed as follows:

1. "Anti-dumping" duty means an additional import duty imposed on imports dumped in Vietnam, which cause or threaten to cause material injury to a domestic industry.
2. "Dumping margin" means the difference between the normal values and the export prices of goods imported in Vietnam.
3. "De minimis dumping margin" means a dumping margin which is no more than 2%, expressed as a percentage of the export prices of goods imported into Vietnam.

4. "Negligible volume, quantity or value of imports dumped in Vietnam" means a volume, quantity or value of imports dumped in Vietnam, which satisfies the following conditions:

- (a) That the volume, quantity or value of goods dumped from one country does not exceed 3% of the total volume, quantity or value of like products imported into Vietnam;
- (b) That the total volumes, quantities or values of goods dumped from a number of countries satisfying the condition set at Point (a) of this Paragraph, does not exceed 7% of the total volume, quantity or value of like products-imported into Vietnam.

5. "Domestic industry" means a group of domestic producers that produce a volume, quantity or value of goods accounting for a major proportion of the total domestic production of like products, provided that these producers do not import the product concerned themselves, and/or are not directly related to the organizations or individuals exporting or importing the product concerned.

6. "Like products" means products which are identical, i.e. alike in all respects to the product under consideration, or in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the products concerned.

7. "Material injury to a domestic industry" means the state of significant decline or growth restriction in terms of production capacity, prices and sales of goods, profit, production, employment, investment and other indexes of the domestic industry, or the state of retardation of the establishment of a domestic industry.

8. "Threat to cause material injury to a domestic industry" means an imminent, apparent and provable possibility of causing material injury to a domestic industry.

### **Article 3. Determining of imports dumped in Vietnam**

1. Goods originating from a country or territory shall be regarded as sold at a dumping price when imported into Vietnam (hereinafter called "goods dumped in Vietnam") if such goods are sold at a price lower than the normal value as prescribed in paragraphs 2 and 3 of this Article.

2. The normal value of a product imported into Vietnam is the comparable price of like products on the domestic market of the exporting country or territory in the ordinary course of trade.

3. In cases where there are no like products on the domestic market of the exporting country or territory or there is a negligible volume, quantity or value of like products on the domestic market of the exporting country or territory, the normal value of the imports into Vietnam shall be determined in either of the following two ways:

- (a) Using the comparable price of like products of the exporting country or territory in the ordinary course of trade to an appropriate third country.
- (b) Using the reasonable costs of the products plus other reasonable expenses as well as reasonable profits, determined at each stage from production to circulation on the market of the exporting country or territory or of a third country.

**Article 4. Anti-dumping measures**

Anti-dumping measures may be applied in the following forms:

1. Anti-dumping duties.
2. Undertakings to take measures to preclude dumping, made by organizations or individuals producing and/or exporting the product concerned which are requested for application of anti-dumping measures with Vietnamese State bodies competent to apply anti-dumping measures, or with domestic producers if it is so approved by Vietnamese State bodies competent to apply anti-dumping measures.

**Article 5. Principles for application of anti-dumping measures**

1. Anti-dumping measures shall be applied at a necessary and reasonable level, only in order to prevent or limit material injury to the domestic industry.
2. Anti-dumping measures shall be applied only after the investigation has been carried out, and must be based on the investigation conclusions prescribed in Chapter II of this Ordinance.
3. Anti-dumping measures shall only be applied directly to the imports dumped in Vietnam under the provisions of this Ordinance.
4. The application of anti-dumping measures must not cause harm to the national socio-economic interests.

**Article 6. Conditions for application of anti-dumping measures**

Anti-dumping measures shall be applied to goods dumped in Vietnam only when the following two conditions are met:

1. The goods dumped in Vietnam and the dumping margin must be specifically determined.
2. The dumping of goods prescribed in Paragraph 1 of this Article must be the reason directly causing or threatening to cause material injury to the domestic industry.

**Article 7. State management responsibility for anti-dumping**

1. The Government shall be responsible for ensuring the uniformity of State management over anti-dumping of imports into Vietnam.
2. The Government shall set up, and specify the organizational apparatuses, functions, tasks and powers of, anti-dumping bodies under the Ministry of Trade, including:
  - (a) The anti-dumping investigating authority (hereinafter called "the Investigating Authority"), which shall investigate and review anti-dumping cases and, when necessary, propose the Trade Minister to issue decisions to apply provisional anti-dumping duties;
  - (b) The Council for handling of anti-dumping cases, which shall consist of a number of standing members and other members who shall work on each case to review the conclusions of the Investigating Authority; discuss and decide by majority on whether the goods are dumped in Vietnam or not, causing or threatening to cause material injury to the domestic industries; and propose that the Trade Minister issue decisions to apply anti-dumping duties.

3. The Trade Minister shall be responsible to the Government for State Management on anti-dumping, for deciding on the application of anti-dumping measures and will be responsible for making such decisions.

4. The Ministries, ministerial-level agencies and the provincial/municipal People's Committees shall, within the scope of their respective tasks and powers, coordinate with the Trade Ministry regarding the State management of anti-dumping measures and the application of anti-dumping measures.

## **CHAPTER II**

### **INVESTIGATIONS IN ORDER TO APPLY ANTI-DUMPING MEASURES**

#### **Article 8. Grounds for investigation**

1. The investigation for the application of anti-dumping measures shall be carried out when organizations or individuals representing the domestic industries file an application.

Organizations or individuals filing an application shall be regarded as representatives of a domestic industry when they meet the following two conditions:

(a) The volume, quantity or value of goods accounted for the domestic producers expressly supporting the application amounts to at least 25% of the total volume, quantity or value of like products from the domestic industry.

(b) The volume, quantity or value of goods prescribed at Point (a) of this Article and of the domestic producers that support the filing of the application must be bigger than the volume, quantity or value of like products from domestic producers that oppose the requests for application of anti-dumping measures.

2. The Trade Minister may decide to initiate an investigation by means of a decision when there is clear evidence that the dumping is causing or threatening to cause material injury to the domestic industry.

#### **Article 9. Application for anti-dumping measures**

An application addressed to the Investigating Agency shall comprise:

1. The written request for the application of anti-dumping measures, including the following:

(a) The name, address and other necessary information of the organization or individual filing the request for the application of anti-dumping measures;

(b) A description of the imports for which a request for the application of anti-dumping measures is being made, stating the name of the goods, their basic characteristics and main use/purpose, their codes according to the current import tariffs, the currently applied import duty rates, and the imports' origin;

(c) A description of the volume, in terms of quantity and value, of the imports stated at Point (b) of this Article in the twelve months before the application is filed;

(d) A description of the volume, in terms of quantity and value of like products domestically produced within twelve months before the application is filed;

- (e) Information on the normal values and the export prices of the products described under the provisions of Point (b) of this Article at the time of their importation into Vietnam within twelve months prior to the date of filing the request for application of anti-dumping measures;
  - (f) The dumping margin of the imports for which the application of anti-dumping measures is requested;
  - (g) Information, data on and proof of the material injury which the goods dumped in Vietnam cause or threaten to cause to the domestic industry in question;
  - (h) The name, address and other necessary information of the organization and/or individual producing and/or exporting into Vietnam the goods subject to the request for the application of anti-dumping measures;
  - (i) The specific request regarding the application of anti-dumping measures, the time-limit and extent of application of the measures;
2. Other relevant documents and information which are deemed necessary by the organization or individual requesting the application of anti-dumping measures.

**Article 10. Decision on investigation for application of anti-dumping measures**

1. Within fifteen days of receiving the application if it is considered that such an application does not contain the information prescribed in Article 9 of this Ordinance, the Investigating Authority must inform the applicant thereof so that supplementary information can be provided.
2. The time-limit to complete the application shall be set by the Investigating Authority but must not be shorter than thirty days as from the date the organization or individual receives the request for completing the application.
3. Before the Trade Minister issuing an investigation decision, the Investigating Authority must notify the competent authorities of the countries or territories exporting the goods subject to the request for the application of anti-dumping measures of the anti-dumping laws of Vietnam.
4. Within sixty days of the date of receiving the application with all the required content, as prescribed in Article 9 of this Ordinance, the Trade Minister shall issue investigation decisions; in special cases, the time-limit for issuance of investigation decisions may be extended for no more than thirty days.
5. Within fifteen days of the date of issuance of the decisions on the investigation for the application of anti-dumping measures, the Investigating Authority shall notify the investigation decisions to the organizations or individuals requesting the application of anti-dumping measures as well as the producers, exporters and competent authorities of the countries or territories that export the product concerned and announce them to the other interested parties.
6. The Trade Minister must not issue investigation decisions if the organizations or individuals requesting the application of anti-dumping measures withdraw the application, except for the case specified in Article 2, Article 8 of this Ordinance.

**Article 11. Parties involved in the investigation process**

The parties involved in the investigation process include:

1. Organizations, individuals filing a request for the application of anti-dumping measures.
2. Foreign organizations, individuals producing or exporting the product concerned.
3. Organizations, individuals importing the product concerned.
4. Domestic organizations, individuals producing like products.
5. Domestic business associations representing the majority of organizations, individuals producing and/or importing like products.
6. Foreign business associations representing the majority of organizations, individuals producing and/or exporting the product concerned.
7. Trade union or other organizations representing the interests of workers in the domestic industries.
8. Organizations protecting consumers' interests;
9. Competent Vietnamese State bodies;
10. Competent authorities of the countries or territories exporting the product concerned.
11. Other organizations, individuals that have rights and interests in the investigation process.

**Article 12. Contents of investigation for application of anti-dumping measures**

The investigation shall serve to determine:

1. Whether the goods under investigation are dumped in Vietnam and the dumping margin.
2. The material injury or the threat to cause material injury to the domestic industry on the basis of examining the following elements:
  - (a) The volume, quantity or value of the goods dumped in Vietnam, compared with the volume, quantity or value of like products domestically produced or sold, which has been increasing significantly in absolute or relative terms;
  - (b) Price effects of the goods requested for application of anti-dumping measures on the reduction of, or the restriction of the possibility to reasonable increase, the prices of the domestic like products;
  - (c) The consequent impact of dumped imports on the domestic industry or on the establishment of the domestic industry.
3. The link between the dumped imports into Vietnam and the material injury or the threat to cause material injury to the domestic industry.

**Article 13. Supply of information, and documents in the investigation process**

1. The parties involved in the investigation process prescribed in Article 11 of this Ordinance shall have to supply truthful information and the necessary documents at the request of the Investigating Authority.
2. Where necessary information or documents are not supplied as requested, the Investigating Authority may make decisions on the basis of available information and documents.

**Article 14. Consultation**

1. The Investigating Authority shall organize consultations with the parties involved in the investigation process prescribed in Article 11 of this Ordinance in order to create conditions for the parties to express their opinions and supply the necessary information.
2. The parties involved in the investigation process are not obliged to attend consultation meetings; if any party is absent from consultation meetings, its interests related to the application of anti-dumping measures shall still be assured.
3. Consultations must not obstruct the investigation process and the application of anti-dumping measures prescribed in this Ordinance.

**Article 15. Confidentiality**

1. The Investigating Authority shall be responsible for keeping information supplied to it confidential when receiving justified requests of the parties involved in the investigation process and request these parties to supply a summary of information which needs to be kept confidential.
2. The parties involved in the investigation process may have access to information already supplied to the Investigating Authority, excluding information which needs to be kept confidential.

**Article 16. Investigation time limit**

1. The time limit for investigation for application of anti-dumping measures shall not exceed twelve months from the date of issuance of the decision to initiate the investigation.
2. In special cases, the Trade Minister may decide to extend the investigation time limit for no more than six months.

**Article 17. Preliminary conclusions**

1. Within ninety days of the date of issuance of the decision to initiate the investigation, the Investigating Authority shall publicize the preliminary conclusions on the contents related to investigation process prescribed in Article 12 of this Ordinance; in special cases, the time limit for publicizing of preliminary conclusions may be extended for no more than sixty days.
2. Preliminary conclusions and major grounds for making such preliminary conclusions must be publicized by appropriate modes to the interested parties in the investigation process.



**Article 18. Final conclusions**

1. After completing the investigation process, the Investigating Authority shall publicize its final conclusions on the contents related to the investigation process prescribed in Article 12 of this Ordinance.
2. The final conclusions and major grounds for making such final conclusions must be publicized by appropriate modes to the interested parties in the investigation process.

**Article 19. Termination of investigation**

The Trade Minister shall decide to terminate investigation in the following cases:

1. Organizations or individuals that have filed a request for application of anti-dumping measures voluntarily withdraw their application;
2. Preliminary conclusions prescribed in Article 17 of this Ordinance contain at least one of the following findings:
  - a/ There is no dumping as prescribed in Article 3 of this Ordinance;
  - b/ The dumping margin is de minimis;
  - c/ The volume, quantity and value of the goods dumped in Vietnam is negligible;
  - d/ There is no material injury or no threat to cause material injury to the domestic industry.

**CHAPTER III**

**APPLICATION OF ANTI-DUMPING MEASURES**

**Article 20. Application of provisional anti-dumping duties**

1. After sixty days of the date of issuance of the decision to initiate the investigation, on the basis of the preliminary conclusions, the Trade Minister may issue a decision to impose provisional anti-dumping duties.
2. The rates of provisional anti-dumping duties must not exceed the dumping margins determined in the preliminary conclusions.
3. The payment of provisional anti-dumping duties may be secured with cash deposits or by other measures as prescribed by law.
4. The time limit for application of provisional anti-dumping duties must not exceed one hundred and twenty days from the date of issuance of decision on the application of this measure.
5. At the requests of the exporters of the like products, the Trade Minister may extend the time limit for application of provisional anti-dumping duties for no more than sixty days.

**Article 21. Application of undertakings**

1. After the preliminary conclusions are made available and before termination of the investigation process, organizations or individuals producing or exporting the goods under investigation may offer undertakings with the Trade Ministry or domestic producers on one of the following grounds:

- a/ Adjusting selling prices;
- b/ Voluntarily restricting the volume, quantity or value of the goods dumped into Vietnam.

2. The Trade Minister may accept or reject or request adjustment of the content of the undertakings but must not force the parties to make such undertakings.

3. The Investigating Agency shall make public the undertakings' contents to the parties involved in the investigation process.

4. In case of rejection of the undertakings of the parties involved, the Trade Minister must notify the reasons therefore and order that the investigation for the application of anti-dumping measures according to the provisions of this Ordinance.

5. The Trade Minister shall issue decisions to terminate the anti-dumping investigation and apply the undertakings if it deems such undertakings will eliminate the injurious effects of the dumping or will prevent such an effect from taking place.

The parties entering into the undertaking must periodically supply the Investigating Agency with information and documents regarding the compliance with their undertakings and prove the accuracy of such information with the decision of the Trade Minister.

6. Where the involved parties fail to properly comply with their undertakings, causing or threatening to cause material injury to the domestic industries, the Trade Minister shall issue a decision to resume the investigation for application of anti-dumping measures or issue a decision to apply anti-dumping measures as provided for by this Ordinance.

**Article 22. Application of anti-dumping duties**

1. Where the undertakings prescribed in Article 21 of this Ordinance cannot be fulfilled, on the basis of the final conclusions and proposals of the Council for handling of anti-dumping cases, the Trade Minister shall issue a decision to impose or not to impose anti-dumping duties.

2. The rates of anti-dumping duties must not exceed the dumping margins determined in the final conclusions.

3. The time limit for application of anti-dumping duties shall not exceed five years from the date of issuance of the decision to apply anti-dumping measures.

4. The time limit for application of anti-dumping duties may be extended in cases where the Trade Minister issues a decision to review the application of anti-dumping duties as provided for in Chapter IV of this Ordinance.

5. The Investigating Authority shall notify by appropriate modes the decisions to impose or not to impose anti-dumping duties to the parties involved in the investigation process.

**Article 23. Retroactive application of anti-dumping duties**

1. Where a final conclusion determines that there is material injury or a threat to cause material injury to the domestic industry and the provisional anti-dumping duties have been applied in the period prior to the final conclusion, then the anti-dumping duties shall be retroactively applied.
2. The anti-dumping duties may be retrospectively applied to the imports for ninety days back before the application of the provisional anti-dumping duties if the following two conditions apply:
  - a/ Those imported goods were dumped;
  - b/ The volume, quantity or value of the goods dumped in Vietnam surge suddenly, causing injury difficult to remedy to the domestic industry.
3. Any difference in the duties shall not be retrospectively collected when the applied anti-dumping duty rate stated in the final conclusion is higher than the provisional anti-dumping duty rate prescribed in Article 20 of this Ordinance.
4. Any difference in the duties shall be refunded when the applied anti-dumping duty rate stated in the final conclusion is lower than the provisional anti-dumping duty rate prescribed in Article 20 of this Ordinance.
5. Where the Trade Minister issues a decision not to impose anti-dumping duties, the provisional anti-dumping duties already collected or amounts deposited to secure the payment of provisional anti-dumping duties prescribed in Article 20 of this Ordinance shall be refunded.

**CHAPTER IV**

**REVIEW OF APPLICATION OF ANTI-DUMPING MEASURES**

**Article 24. Review of the application of antidumping measures**

1. After one year from the date of issuance of the decision to apply anti-dumping measures, the Trade Minister shall be entitled to review the application of such anti-dumping measures when it is so requested by one or many of the involved parties prescribed in Article 11 of this Ordinance and on the basis of examining the proofs supplied by the requesting party(ies).
2. One year before the expiry of the decisions to apply anti-dumping measures, the Trade Minister shall issue decisions to review the application of such anti-dumping measures.
3. The Investigating Authority shall review the application of anti-dumping measures according to the provisions of Articles 9,10,11,12,13,14 and 15 of this Ordinance.
4. The carrying out of procedures related to the review process must not obstruct the current application of anti-dumping measures.
5. The time limit for reviewing the application of anti-dumping measures prescribed in Paragraphs 1 and 2 of this Article shall not exceed twelve months from the date of issuance of the review decisions.

**Article 25. Decisions on the results of review of the application of anti-dumping measures**

At the end of the review of the application of anti-dumping measures, the Trade Minister shall issue one of the following decisions:

1. To continue, or extend the time limit for, the application of anti-dumping measures;
2. To adjust the anti-dumping duty rates as appropriate to the results of the review;
3. To terminate the application of anti-dumping measures.

**CHAPTER V**

**COMPLAINTS AND DEALING WITH BREACHES**

**Article 26. Complaints, lawsuits**

1. Within sixty days of the date on which the Trade Minister issues the decision to apply anti-dumping measures, if the parties involved in the investigation process and the application of anti-dumping measures disagree with such a decision, they may lodge complaints with the Trade Minister.
2. Within sixty days of the date of receiving complaints, the Trade Minister shall settle them; in special cases, the time limit for settling complaints may be extended for no more than sixty days and such extension must be notified by appropriate method to the complaining organizations or individuals.
3. Once the time limit stated in Paragraph 2 of this Article has elapsed, if the Trade Minister fails to issue a decision to settle their complaints or the complaining organizations or individuals disagree with the Trade Minister's decision to settle their complaints, they may initiate lawsuits in the courts according to the provisions of Vietnamese law.

**Article 27. Settlement of disputes and handling of violations**

The settlement of disputes and the handling of violations of the legislation on the dumping of goods in Vietnam shall comply with Vietnamese law; if international agreements to which Vietnam is a signatory or to which Vietnam has acceded provide otherwise, such international agreements shall apply.

**CHAPTER VI**

**IMPLEMENTING PROVISIONS**

**Article 28. Implementation effect**

This Ordinance takes effect from 1 October 2004.

**Article 29. Implementation guidance**

The Government and the Supreme People's Court shall, within the scope of their respective tasks and powers, detail and guide the implementation of this Ordinance.

On behalf the Standing Committee of the National Assembly  
Chairman

NGUYEN VAN AN

GOVERNMENT  
No. 90-2005-ND-CP

SOCIALIST REPUBLIC OF VIETNAM  
Independence - Freedom - Happiness

*Hanoi, 11 July 2005*

**DECREE  
MAKING DETAILED PROVISIONS FOR IMPLEMENTATION OF  
ORDINANCE AGAINST DUMPING OF IMPORTED GOODS  
INTO VIETNAM**

**THE GOVERNMENT**

Pursuant to the Law on the Organization of the Government dated 25 December 2001;

Pursuant to the Ordinance Against Dumping of Imported Goods into Vietnam 20-2004-PL-UBTVQH11 dated 29 April 2004;

On the proposal of the Minister of Trade,

**DECREES:  
CHAPTER I  
GENERAL PROVISIONS**

**Article 1. Governing scope**

This Decree sets forth detailed regulations and guidance for implementing a number of provisions of the Ordinance on anti-dumping of imports into Vietnam (hereinafter referred to as "Ordinance on Antidumping"), concerning the operations of the Investigating Authority on Anti-dumping, and the Council for handling antidumping cases, investigation procedures, matters to be investigated and the imposition of anti-dumping measures against imports dumped in Vietnam.

**Article 2. Spoken and written language used in the process of handling anti-dumping cases**

1. The spoken and written language used in the process of handling antidumping cases is Vietnamese. Parties involved in the process of investigation as prescribed in Article 11 of the Ordinance on Anti-dumping (hereinafter referred to as "interested parties") have the right to use their native spoken and written languages, provided that a translation into Vietnamese is made available.

2. If the original information and documents provided by the interested parties are not in Vietnamese, translated versions into Vietnamese are required. The interested parties must ensure the truthfulness and accuracy of the translated version and shall be responsible for materials translated as provided for by law.

**Article 3. Evidence**

Evidence in the process of handling antidumping cases refers to things that are real and used by the Investigating Authority on Antidumping, [or] Council for handling Antidumping cases as a basis for determining whether or not imports are being dumped in Vietnam, determining material or threat to cause material injury to the domestic industry and identifying the link between the dumping

and the material injury or threat to cause material injury being suffered by the domestic industry as well as other elements that are necessary to ensure a proper settlement of an anti-dumping case.

**Article 4. Determination of major proportion in volume, quantity or value of like product(s) produced by domestic industry**

A major proportion of volume, quantity or value of like products produced by the domestic industry implies cases where the volume, quantity or value of goods comprise not less than 50% of the total production of like products produced by domestic industry.

**Article 5. Determination of direct association between the domestic producers of the like products and the individual(s), [or] organization(s) exporting, [or] importing the goods in question.**

1. A domestic producer of like product shall be deemed to be related to the individual, [or] organization exporting, [or] importing the goods concerned in the following circumstances:

- a. One party controls the other directly or indirectly;
- b. Both parties are controlled by a third party directly or indirectly; or
- c. Together they control a third party directly or indirectly.

2. A party may be deemed to control the other if the former has the ability to influence the latter's financial policies and operations, so as to financially benefit from the latter's business operations.

## **CHAPTER II**

### **ANTI-DUMPING COMMISSION, PERSONS DEALING WITH ANTI-DUMPING CASES, PERSONS PARTICIPATING IN THE PROCESS OF RESOLUTION OF ANTI-DUMPING CASES**

#### **SECTION I**

##### **Anti-dumping commission, persons dealing with anti-dumping cases**

**Article 6. Authorities responsible for anti-dumping, persons handling anti-dumping cases**

1. Anti-dumping authorities are set up under the Ministry of Trade, including the Investigating Authority on Anti-dumping (hereinafter referred to as "Investigating Authority") and the Council for Handling Anti-dumping Cases (hereinafter referred to as "Council on Anti-dumping").

2. Persons handling antidumping cases include:

- a. The Head of the Investigating Authority;
- b. The investigators of anti-dumping cases (hereinafter referred to as "investigators");
- c. Members of the Council on Anti-dumping

**Article 7. Responsibilities and powers of the Investigating Authority**

1. In handling anti-dumping cases, the Investigating Authority shall have following responsibilities and powers:

1. To issue forms with respect to the application requesting the imposition of anti-dumping measures and questionnaires;
2. To fulfil all the tasks and procedures for an anti-dumping investigation in conformity with the Ordinance on Anti-dumping and this Decree;
3. To request that interested parties provide the information and documents that are necessary and relevant to the case;
4. To hold consultation sessions with interested parties;
5. To issue a preliminary decision on matters related to the investigation;
6. To make recommendations to the Minister of Trade concerning the imposition or non-imposition of provisional anti-dumping duties.
7. To make recommendations to the Minister of Trade concerning the acceptance, or non-acceptance, or adjustment of the undertakings voluntarily proposed by the subject producers, [and/or] exporters as provided for in Paragraph 2, Article 21 of the Anti-dumping Ordinance;
8. To issue a final decision on the investigation;
9. To conduct reviews for anti-dumping measures pursuant to the decision of the Minister of Trade;
10. To perform other tasks as provided for by laws.

**Article 8. The Head of the Investigating Authority**

1. The Head of the Investigating Authority shall be appointed and dismissed by the Minister of Trade.

2. The Head of the Investigating Authority shall have the following responsibilities and powers, to:

- a. Organize, [and] direct the Investigating Authority to carry out its responsibilities and powers as prescribed in Article 7 of this Decree;
- b. Assign investigators for handling a specific antidumping case;
- c. Assign investigator as presiding officer for handling the consultation session;
- d. Monitor investigators' performance
- e. Decide to organize consultation sessions;
- f. Preserve the confidentiality of information in conformity to provisions provided in Article 30 of this Decree;
- g. Request official authentication of documents.

**Article 9. Investigator**

1. Eligibility criteria for the post of investigator.

A person that is eligible for the post of investigator should satisfy the following criteria:

- a. They should be of good moral virtue, [and] honest and impartial;
- b. They should hold a bachelor's or higher degree in law, [or] economics or finance;
- c. They shall have a minimum of 5 years practical experience in any of the fields referred to in point b of this Article;
- d. They shall have been trained or upgraded in investigating skills.



2. Investigators shall be appointed and dismissed by the Minister of Trade upon the recommendations of the Head of the Investigating Authority.

**Article 10. Responsibilities and powers of an investigator**

In handling an anti-dumping case, the investigator shall have following responsibilities and powers, to:

1. Fulfil investigative tasks as assigned by the Head of the Investigating Authority;
2. Request the interested parties provide any necessary information and documents relevant to the anti-dumping case;
3. Preserve the confidentiality of information in conformity with Article 30 of this Decree;
4. Protect documents provided by interested parties;
5. Report investigation findings after the completion of the investigation, and to compile and submit to Head of the Investigating Authority the preliminary and final conclusions made during the course of investigation.

**Article 11. Responsibilities and powers of the Council on Anti-dumping**

The parties involved in the investigation process include:

1. Make judgements on conclusions made by the Investigating Authority;
2. Discuss and decide through a majority vote on whether or not dumping of imports into Vietnam is taking place, which causes or threatens to cause material injury to the domestic industry;
3. Make recommendations to the Minister of Trade with respect to the imposition of the anti-dumping duty in accordance with Article 39 of this Decree.

**Article 12. Member of the Council on Anti-dumping**

1. Eligibility criteria for members of the Council on Anti-dumping:

The Minister of Trade shall make a recommended list of members of Council on Anti-dumping and submit it to the Prime Minister for approval. Eligibility criteria for members of Council on Anti-dumping are as follows:

- a. They should be of good moral virtue, [and] being honest and impartial;
  - b. They shall hold a bachelor's or higher degree in law, [or] economics or finance;
  - c. They shall have a minimum of 9 years practical experience in any of the fields referred to in point b of this paragraph.
2. For each specific anti-dumping case, the Minister of Trade shall decide on the number of Council members based on the approved list and assign one of the members as the presiding officer to chair the Council meetings and to sign decisions, [and/or] recommendations as prescribed in paragraph 2 and 3, Article 11 of this Decree.
  3. A member of the Council on Anti-dumping shall be appointed for a 5-year term and may be re-appointed.

**Article 13. Responsibilities and powers of members of the Council on Anti-dumping**

In handling an anti-dumping case, members of the Council on Anti-dumping shall have following responsibilities and powers, to:

1. Examine, [and] review the files and conclusions of the Investigating Authority and other documents in the file handed over by the Investigating Authority;
2. Participate in the Council meetings, discussion and voting to determine whether there exists dumping that causes or threatens to cause material injury to the domestic industry;
3. Preserve the confidentiality of information in conformity with Article 30 of this Decree.

## **SECTION II**

### **Persons Participating in the Process of Resolution of Anti-dumping Cases**

#### **Article 14. Persons involved in the process of handling anti-dumping cases**

Persons involved in the process of handling anti-dumping cases include:

1. Organizations, [or] individuals representing the domestic industry as prescribed in paragraph 1, Article 8 of the Ordinance on Anti-dumping who file an application with the Investigating Authority requesting the imposition of anti-dumping measures (hereinafter referred to as "Applicant(s)");
2. Foreign organizations or individuals producing, [and/or] exporting goods against which anti-dumping measures are requested by the Applicant (s), or which are subject to the investigation initiated upon the decision of the Minister of Trade as provided in paragraph 2 Article 8 of the Ordinance on Anti-dumping (hereinafter referred to as "Defendant(s)");
3. The lawyer of the Applicant(s), [and/or] Defendant(s);
4. Other interested parties.

#### **Article 15. Rights and obligations of the Applicant(s), [and/or] Defendant(s)**

1. During the course of handling the anti-dumping case, the Applicant(s) shall have the following rights, to:
  - a. Access information provided to the Investigating Authority by other interested parties, except for confidential information preserved under Article 30 of this Decree;
  - b. Request for confidentiality of information pursuant to Article 30 of this Decree;
  - c. Participate in the consultation session;
  - d. Authorize lawyer(s) to handle the case on their behalf;
  - e. Request that the Investigating Authority organize a closed consultation session as provided for in Paragraph 6 Article 29 of this Decree;
  - f. Lodge complaints against the decisions of the Minister of Trade as provided by Article 26 of the Ordinance on Antidumping.
2. During the course of handling the anti-dumping case, the Defendant(s) shall have the following rights:
  - a. Rights as prescribed in paragraph 1 of this Article;
  - b. The right to request that the Investigating Authority grant an extension of the amount of time allowed for the provision of information, [or] return of the questionnaires pursuant to paragraph 2, Article 23 of this Decree;
3. Applicant(s) and Defendant(s) have following obligations, to:

- a. Provide sufficient, truthful, accurate and timely information and necessary documents related to their request.
- b. Provide sufficient, truthful, accurate and timely information and necessary documents as requested by the Investigating Authority, [and/or] investigators;
- c. Execute decisions of the Minister of Trade.

**Article 16. Lawyers of the Applicant(s), Defendant(s)**

1. Lawyers who fully satisfy the eligibility criteria for trial attorneys set forth by Vietnam's legal provisions and have the authorization of the Applicant(s) or Defendant(s) shall have the right to participate in the process of handling anti-dumping cases to defend legitimate rights and interests of parties that they represent for.

2. In the process of handling anti-dumping cases, lawyers shall have the following rights and obligations, to:

- a. Participate in all stages of the process of handling anti-dumping cases;
- b. Verify, collect and provide documents to defend legitimate rights and interests of parties that they represent for;
- c. Examine documents included in the file of an anti-dumping case;
- d. Make notes and copies of the documents included in the file of anti-dumping case, except for confidential information preserved under Article 30 of this Decree to defend legitimate rights and interests of parties that they represent;
- e. Provide assistance to parties that they represent on legal issues related to the defence of such parties' legitimate rights and interests;
- f. Respect the truth and law; not to bribe, compel or incite others to provide false testimony, [or] false documents;
- g. Not to disclose any confidential information that they obtain through their participation in the process of handling the anti-dumping case;
- h. Not to use any notes taken, [and/or] copies of documents included in the dossier of anti-dumping case for the purposes of infringing national interest, [and/or] the legitimate rights and interests of organizations and individuals.

**Article 17. Rights and Obligations of other interested parties**

In the process of handling anti-dumping case, interested parties other than the Applicant(s), [and/or] Defendant(s), as prescribed in paragraph 1, 2 of Article 14 of this Decree, shall have the following rights and obligations, to:

1. Provide truthful, [and] necessary information and documents relevant to the anti-dumping case in their own opinion or at the request of the Investigating Authority, [and/or] investigators;
2. Request for confidentiality of information pursuant to Article 30 of this Decree;
3. Access to information obtained by the Investigating Authority, except for confidential information preserved under Article 30 of this Decree;
4. Participate in the consultation session and present their point of views with regard to the anti-dumping case, except for cases specified in paragraph 6, Article 29 of this Decree.

### **CHAPTER III**

#### **INVESTIGATION INTO APPLICATION OF ANTI-DUMPING MEASURES**

##### **Article 18. Application requesting the imposition of anti-dumping measures**

The application requesting the imposition of anti-dumping measures include:

1. Application requesting the imposition of antidumping measures includes the followings:
  - a. The name, address and other necessary information of the applicant(s), or of the representatives of the domestic industry in cases where the dossier requesting the imposition of anti-dumping measures was instituted ex officio by the Investigating Authority;
  - b. A description of the imports against which the imposition of anti-dumping measures is requested, including the name of the goods, their main characteristics and major intended use, their respective HS codes and tariff rates under the contemporary import nomenclature, and the origin of such goods;
  - c. A description of the volume, in terms of quantity and value of the imports described in point b of this provision in the twelve months prior to the date on which the application requesting the imposition of antidumping measures is filed by the Applicant(s), or prior to the date on which the application requesting the imposition of anti-dumping measures is instituted ex officio by the Investigating Authority;
  - d. A description of the volume, in terms of quantity and value of like products domestically produced in the twelve months prior to the date on which the application requesting the imposition of antidumping measures is filed by the Applicant(s) or prior to the date on which the application requesting the imposition of antidumping measures is instituted ex officio by the Investigating Authority;
  - đ. Information on the normal value and export prices of the product stipulated in paragraph (b) of this paragraph at the time of their import into Vietnam in the twelve months prior to the date on which the application requesting the imposition of anti-dumping measures is filed by the Applicant(s), or prior to the date on which the application requesting the imposition of anti-dumping measures is instituted ex officio by the Investigating Authority;
  - e. The dumping margins of the imports against which the imposition of anti-dumping measures is requested;
  - f. Information, data and evidence on the material injury to the domestic industry, which the imports dumped in Vietnam cause or threaten to cause;
  - g. Names, addresses and other necessary information about the Defendant(s);
  - h. The specific anti-dumping measures which are being requested, and the duration and extent of such measures.
2. Other relevant documents and information that are deemed relevant by Applicant(s) or by the Investigating Authority, in cases where the application requests the imposition of anti-dumping measures ex officio.

##### **Article 19. Review and Analysis of applications filed by Applicant(s)**

1. Within 45 days of the receipt of a properly documented file as provided in Article 18 hereof, the Investigating Authority shall review and analyze the application and submit recommendations to the Minister of Trade, who shall, subject to his or her considerations, decide whether or not to initiate an investigation.
2. Matters to be reviewed and analyzed include:

- a. Determining whether the Applicant(s) is eligible to represent the domestic industry as stipulated in Paragraph 1, Article 8 of the Ordinance on Anti-dumping;
- b. Identifying that imported goods dumped into Vietnam cause material injury or threat to cause material injury to the domestic manufacturing industry.

**Article 20. Institution/Preparation of anti-dumping files in cases where there are no Applicant(s)**

1. In cases where there are no Applicant(s) but there are indications that dumped imports into Vietnam cause or threaten to cause material injury to the domestic industry, the Minister of Trade shall issue a formal request to the Investigating Authority, ordering them to prepare the anti-dumping files and submit them to the Minister of Trade, upon which the Minister of Trade shall, subject to his or her considerations, decide whether or not to initiate an investigation.
2. The time-period for instituting/preparing such a file is 6 months, from the date on which the formal request is signed by the Trade Minister.

**Article 21. Decision to initiate investigation**

1. The decision to initiate an investigation shall include the following:
  - a. The name, address and other necessary information of the Applicant(s) (if any);
  - b. The name, address and other necessary information of the representatives of the domestic industry in cases where there are no Applicant(s);
  - c. A description of the goods concerned, including the name of the goods, their main characteristics and major intended use, their respective HS codes and tariff rates in accordance with the contemporary nomenclature of imports, and the origin of such goods;
  - d. The name, address and other necessary information about the Defendant(s);
  - e. The name of countries, territories producing, [or] exporting goods against which the imposition of anti-dumping measures is requested;
  - f. A summary of information on the dumping on imports described in point c of this Article causing material injury or threatening to cause material injury to the domestic manufacturing industry;
  - g. The effective date for commencing the investigation;
  - h. Investigation period;
  - i. Time schedule for handling anti-dumping cases;
  - k. Other relevant information that the Minister of Trade deems necessary.
2. The notification, [or] publicity of decision to initiate investigation shall be carried out in accordance to paragraph 5, Article 10 of the Ordinance on Anti-dumping.

**Article 22. Provision of information, [or] documents during the course of investigation**

1. Interested parties shall be responsible for providing truthful information and necessary documents as requested by the Investigating Authority.
2. In cases where it is deemed necessary, the Investigating Authority may request official authentication of the information, documents provided by interested parties, or may conduct meetings to verify and clarify the information documents provided by interested parties to ensure a proper assessment of an antidumping case.
3. In cases where verification, (or) clarification meetings are conducted in countries and territories other than Vietnam, the Investigating Authority shall follow the provisions set out below:

- a. The Investigating Authority should send notices of such meetings to the organizations, (or) individuals in question and competent agencies in the country or territory where such verifications or clarifications are to be conducted;
  - b. Verification or clarification meetings must be conducted with the consent of the organizations and individuals in question and with no objection from the competent agencies in the country or territory where such meeting is to be conducted, unless otherwise stipulated by international treaties to which Vietnam and the countries, [or] territories in question are signatories.
4. Except for confidential information preserved under Article 30 of this Decree, the Investigating Authority should make the findings of such verification [or], clarification meetings known to the parties in question.
5. The Investigating Authority shall use the best information, documents available in the following circumstances:
  - a. Interested parties do not provide the requested information, [or] documents as prescribed in paragraph 1 of this Article;
  - b. Official authentication, (or) verifications show that that information, [or] documents provided by interested parties is false;
  - c. Interested parties do not give consent to the Investigating Authority to conduct verification meetings;
  - d. Interested parties impede the investigation otherwise.
6. In the case of refusal to use part of information and data provided by interested parties, the Investigating Authority shall specify the reasons for refusal to use such part of information and data.

**Article 23. The Questionnaire**

1. Within 15 days of the date on which the decision to initiate the anti-dumping investigation is made, the Investigating Authority must send the questionnaire to the following recipients:
  - a. Defendant(s) or their authorised representatives;
  - b. Vietnam-based diplomatic agencies of the countries or territories exporting the goods concerned;
  - c. Competent authorities of the countries or territories exporting the goods requested to be imposed with anti-dumping measures;
  - d. Other parties involved in the investigation process.
2. Within 30 days of the date of receipt of the questionnaire, Defendant(s) and other interested parties must return the fully completed questionnaire with feedback to all the questions to the Investigating Authority. In cases where it is deemed necessary, upon the Defendants' request, the Investigating Authority may, subject to its consideration, grant an extension to this time limit of no longer than 30 days.
3. The questionnaire is deemed to have arrived to the recipients' addresses after 07 working days from the date on which it is sent by the Investigating Authority. The date on which the questionnaire is sent is defined on the basis of the postal mark.

**Article 24. Matters to be investigated in an anti-dumping investigation**

The investigation for the imposition of anti-dumping measures against imports dumped in Vietnam includes:

1. Determining the goods dumped in Vietnam and the margin of dumping as prescribed in Article 25 of this Decree;
2. Determining the material injury or threat to cause material injury to the domestic industry as prescribed in paragraph 2 Article 12 of the Ordinance on Anti-dumping;
3. Identifying the causal link between the dumping of goods into Vietnam and the material injury or threat to cause material injury to the domestic industry as prescribed in Article 28 of this Decree.

#### **Article 25. Determination of dumping margin**

1. The Investigating Authority shall determine a specific margin of dumping for each individual Defendant in an anti-dumping case, except for cases specified in paragraph 2 of this Article.
2. In cases where the number of Defendants or the range of goods concerned is so large that the determination of an individual margin becomes impracticable, the Investigating Authority may limit their scope of investigation to determining an individual margin and to a limited number of Defendant(s) or products involved.

So as to limit the scope of investigation, the Investigating Authority shall follow the following provisions:

- a) The scope of investigation should be limited by sampling, based on the volume, quantity or value of the goods which are the subject of the request for application of anti-dumping measures, manufactured and exported into Vietnam by the Defendant (s) or other data and information available to the Investigating Authority at the moment of choosing the sample;
  - b) Where necessary, the Investigating Authority may conduct consultations about the sampling with the Defendants, (or) importers. The Authority must have the Defendant's consent before including such a Defendant in the sample.
3. A dumping margin is defined as the calculable difference between the normal value and the export prices of goods imported into Vietnam.
  4. For those Defendants who are not included in the sample for investigation, their dumping margin shall be defined as the weighted average of the dumping margins determined for the Defendant(s) that are included in the sample as prescribed in paragraph 2 of this Article.
  5. The Investigating Authority may, subject to its consideration, determine an individual margin for Defendant(s) who are not included in the investigation sample under paragraph 2 of this Article but voluntarily submit all relevant information in a timely manner during the course of the investigation, unless the number of Defendant(s) who submit information on a voluntary basis is so large that individual examination would prevent the timely completion of the investigation.

#### **Article 26. Determination of normal value, [and] export price**

1. The normal value of an import into Vietnam is determined in accordance with paragraph 2, [and] 3, Article 3 of the Ordinance on Anti-dumping.
2. In cases where goods are imported into Vietnam from a third country or territory, the normal value may be determined by a comparable price of like products [goods] sold in that third country or territory (country of export).

3. In cases where goods are merely transshipped through a third country or territory or there is no comparable price of like goods in the third country or territory of export, the normal value is determined by the comparable price of like products [goods] sold in the country or territory of origin.
4. The export price of an import into Vietnam is defined as the price at which the foreign producers or exporters sell the goods to the importers in Vietnam and shall be determined based on legitimate transaction documents.
5. Where there exists no export price or there exist strong indications that the export price under paragraph 4 of this Article is unreliable, the Investigating Authority shall determine the export price by either of the two methods prescribed below:
  - a. Export price is constructed on the basis of the price at which the imported products are first resold to an independent buyer in Vietnam;
  - b. Export price is determined by a reasonable methodology prescribed by the Investigating Authority.

**Article 27. Adjustments of normal value, [and/or] export price for determining the dumping margin**

In cases where it is deemed necessary, when determining the dumping margin the Investigating Authority may consider and carry out the following adjustments:

1. Adjustments of the normal value and export price to the same level of trade;
2. Adjustments of the normal value and export price to the same point of time or possible nearest points in time at which the calculations are made;
3. Adjustments of the normal value and export price for differences in taxation, conditions and terms of sale, volume of trade, quantity, physical characteristics and other elements that the Investigating Authority deems appropriate.
4. The normal value and export price must be converted into Vietnamese currency at the average inter-bank rate published by the State Bank of Vietnam on the date on which the Minister of Trade signs a decision to conduct an investigation. Where the State Bank of Vietnam does not publish any exchange rate on the date on which the Minister of Trade signs a decision to conduct an investigation, the conversion shall be conducted on the basis of the exchange rate published on the following date.

**Article 28. Determination of causality between the dumping of goods in Vietnam and the material injury or the threat to cause material injury to the domestic industry.**

1. To determine the causality between the dumped imports and the material injury or threat to cause material injury to the domestic industry, the Investigating Authority should consider the following elements:
  - a. The causal link between the dumping of goods in Vietnam and the evidence on the material injury or threat to cause material injury to the domestic industry;
  - b. The volume and prices of the non-dumped like products imported into Vietnam;
  - c. The contraction in demand or changes in the patterns of consumption with respect to the domestic like products;
  - d. The export performance and productivity of the domestic industry.
  - e. Other elements deemed relevant by the Investigating Authority.



2. In cases where it is deemed necessary, the Investigating Authority may additionally take into account elements other than the dumping of imports which may cause material injury or threat to cause material injury to the domestic industry.

**Article 29. Consultation in the course of investigation**

1. The Investigating Authority shall, on the basis of the date of the consultation session stated in the decision to conduct an investigation into application of anti-dumping measures, conduct open consultation sessions with parties concerned. For each consultation session, the Authority shall assign, at minimum, 03 investigators, one of whom being appointed as the presiding officer to chair the consultation session.

2. No later than 30 days before the date of the consultation session, interested parties must submit to the Investing Authority the written request for their participation in the consultation session, in which, the issues to be consulted on should be specified and written arguments should be enclosed.

3. Consultation process:

- a. The presiding officer declares the consultation session open;
- b. The Applicants, [and/or] the Defendant(s), or their authorised representatives make presentations, giving evidence relevant to the anti-dumping case to support their arguments. The duration of the presentation for each party shall not exceed 90 minutes;
- c. The Applicants, [and/or] the Defendant(s) submit the details of their presentation prescribed in point b of this paragraph in writing to the presiding officer;
- d. Interested parties other than the persons prescribed in point b of this paragraph have the right to make written submission addressing their views relevant to the anti-dumping case to the presiding officer;
- e. The presiding officer, [and/or] the investigators pose questions and obtain responses from the Applicants, [and/or] the Defendant(s) or their authorised representatives. The duration of question-and-answer session provided for each party shall not exceed 60 minutes. All details shall be recorded in the minutes of the consultation session.
- f. The presiding officer shall summarize the consultation session and declares to close the consultation session.

4. Within 07 working days of the date of the consultation session, interested parties have the rights to make a supplementary written submission addressing their views relevant to the anti-dumping case to the Investigating Authority.

5. The whole content of the consultation, including written submissions of parties involved and the minutes on consultation session shall be publicized by the Investigating Authority.

6. In cases where it is deemed necessary, the Investigating Authority may, upon an Applicants' or Defendants' request, organize a closed consultation session. Participants of such consultation shall be decided on with reference to the request of the requesting party.

**Article 30. Confidentiality**

1. The Investigating Authority and Investigators shall be responsible for preserving the confidentiality of information provided by parties involved where:
  - a. The information is deemed to be national secret or other types of secrets as prescribed by law;
  - b. The information is considered confidential by the submitting party and their request for confidentiality is warranted by the Investigating Authority.
2. When submitting such information as prescribed in point b, paragraph 1 of this Article, the submitting party should enclose detailed explanations of the rationale for such request for confidentiality and a non-confidential summary of such information, which could be disclosed to other interested parties.
3. In cases where request for confidentiality was not warranted and the submitting party is unwilling to make such information public, the Investigating Authority shall disregard such information and return them to the submitting party.

**Article 31. Preliminary conclusion**

1. Within 90 days of the date of the decision to initiate the investigation, the Investigating Authority shall publicize the preliminary conclusion on the investigated matters as prescribed in Article 12 the Ordinance on Anti-dumping; in special cases, the time limit for publicizing the preliminary conclusion may be extended, however such extension shall not exceed 60 days.
2. Preliminary conclusions shall be made known to interested parties in an appropriate manner and shall include the following:
  - a. The name, address and other necessary information on the Applicant(s) (if any);
  - b. Description of the imports against which the imposition of anti-dumping measures is requested, including the name of the goods, their main characteristics and major intended use, HS codes and tariff rates under the contemporary import nomenclature and the origin of such goods;
  - c. The name, address and other necessary information on the Defendant(s);
  - d. Description of the volume, quantity or value of the subject imports in-to Vietnam as prescribed in point b of this paragraph in the twelve months prior to the date on which the application is filed by the Applicant(s) or prior to the date on which the antidumping file is instituted ex officio by the Investigating Authority pursuant to the decision of the Minister of Trade;
  - e. Dumping margins;
  - f. Information, [or] evidence to demonstrate that the dumping of imports prescribed in point b of this paragraph causes material injury or threatens to cause material injury to the domestic industry; or information, [or] evidence to demonstrate that the tardiness in imposition of provisional antidumping duty may cause nearly irreparable material injury to the domestic industry;
  - g. A time schedule for handling the antidumping case;
  - h. Other relevant information that is deemed necessary by the Investigating Authority.

3. Within 07 days of the date on which the preliminary conclusion was made, the Investigating Authority shall submit the report on investigation to the Minister of Trade, and in cases where it is deemed necessary, the Investigating Authority shall make recommendations to the Minister of Trade with respect to the issuance of a Ministerial decision on the imposition of provisional antidumping duty.

#### **Article 32. Termination of investigation**

1. The Minister of Trade shall take a decision on terminating an investigation in accordance with the provisions under Article 19 of the Ordinance on Anti-dumping.

2. Within 07 working days of the date of the decision to terminate the investigation, the Investigating Authority shall send the interested parties a written notification of such decision in which the reasons for such termination shall be clearly stated.

#### **Article 33. Final conclusion**

1. Within 30 days of completion of the investigation, the Investigating Authority shall publicize the final conclusion on the investigated matters prescribed in Article 12 the Ordinance on Antidumping.

2. The interested parties shall be notified of the final conclusion and major grounds for such conclusion and the notification shall include the followings:

- a. The name, address and other necessary information of the Applicant(s) (if any);
- b. Description of the imports against which the imposition of antidumping measures is requested, including the name of the goods, their main characteristics and major intended use, HS codes and tariff rates under the contemporary import nomenclature, and the origin of such goods;
- c. The name, address and other necessary information of the Defendant(s);
- d. Description of the volume, quantity and value of the imports in to Vietnam as prescribed in point b of this paragraph within 12 months prior to the date on which the application is filed by the Applicant(s) or prior to the date on which the antidumping file is instituted ex officio by the Investigating Authority pursuant to the decision of the Minister of Trade;
- e. Dumping margins;
- f. Information, [or] evidence to demonstrate that the dumping of imports, prescribed in point b of this paragraph, causes material injury or threatens to cause material injury to the domestic industry;
- g. Time schedule for handling the antidumping case;
- h. Other relevant information that the Investigating Authority deems necessary.

3. Within 07 working days of the date of publication of the final conclusion, the Investigating Authority shall refer the case to the Council on Antidumping, which includes the followings:

- a. A file requesting the imposition of antidumping measures;
- b. An investigation report;
- c. Preliminary conclusion;
- d. Final conclusions and major grounds for making such conclusions;
- e. The recommendations of the Investigating Authority.

**CHAPTER IV**  
**APPLICATION OF ANTI-DUMPING MEASURES**  
**SECTION I**

**Application of Measure Being an Undertaking**

**Article 34. Submission of undertakings**

After the issuance of the preliminary conclusion and no later than 30 days prior to the completion of the investigation, the authorised representatives of Defendant(s) may submit their formal written commitments on the matters prescribed in paragraph 1 of Article 21 of the Ordinance on Antidumping (hereafter referred to as "Undertakings to eliminate dumping") either directly to the Ministry of Trade through the Investigating Authority or to domestic producers for consideration before submitting such undertakings to the Investigating Authority.

**Article 35. Analysis and assessment of undertakings to eliminate dumping**

1. Within 30 days of the receipt of the undertakings to eliminate dumping, the Investigating Authority shall analyze and assess such undertakings and make recommendations to the Minister of Trade for acceptance, or non-acceptance, of the undertakings.
2. Undertakings to eliminate dumping shall be assessed on the following basis:
  - a. The implementation of undertakings to eliminate dumping is likely to offset the injurious effects of the dumping on the domestic industry;
  - b. The implementation of undertakings to eliminate dumping must not cause negative effect on the implementation of socio-economic policies.

**Article 36. Ministerial decision on undertakings to eliminate dumping**

1. Upon the recommendations of the Investigating Authority on undertakings to eliminate dumping, the Minister of Trade may make one of the following decisions:
  - a. A decision to suspend the investigation and accept undertakings to eliminate dumping of the proposing parties;
  - b. A decision to request adjustments to undertakings to eliminate dumping, however, proposing parties shall not be forced to offer such adjustments.
  - c. A decision to reject undertakings to eliminate dumping and the reasons for non-acceptance must be clearly stated.
2. Parties involved shall be notified of decisions prescribed in paragraph 1 of this Article in appropriate manners.
3. In cases where proposing parties agree to make adjustments to their proposals on undertakings to eliminate dumping previously proposed as prescribed in point b of paragraph 1 of this Article, such proposing parties must submit their adjusted undertakings to the Investigating Authority for analysis and assessment in accordance with the provisions provided in this Section.

**Article 37. Monitoring of undertakings to eliminate dumping**

1. Parties that enter into undertakings to eliminate dumping shall be subject to the monitoring of the Investigating Authority.

2. Parties that enter into such undertakings must, on a periodical basis, submit information, [or] documents related to their compliance of such undertakings to the Investigating Authority and are responsible for demonstrating the truthfulness of such information, [or] documents upon the decision of the Minister of Trade.

3. In cases where a party who enters into an undertaking fails to comply with his or her undertaking, which causes or threatens to cause material injury to the domestic industry, the Investigating Authority shall make recommendations to the Minister of Trade, who shall decide to resume the antidumping investigation or to apply antidumping measures as provided for in paragraph 6, Article 21 of the Ordinance on Antidumping.

## **SECTION II**

### **Application of Anti-dumping Duty**

#### **Article 38. Imposition of provisional Antidumping Duty**

1. 60 days following the date of the decision to initiate the investigation, the Minister of Trade shall decide on the imposition of provisional anti-dumping duty based on the preliminary conclusions and the recommendations of the Investigating Authority.

2. A decision on the imposition of provisional antidumping duty shall be made in accordance to provisions set out in paragraph 2, 3, 4 and 5, Article 20 of the Ordinance on Antidumping.

3. A decision on the imposition of provisional antidumping duty shall be publicized, and shall include the following:

- a. The name, address and other necessary information of the Applicant(s) (if any);
- b. A description of the imports subject to the imposition of provisional anti-dumping duty, including the name of the goods, their main characteristics and major intended use, HS codes and tariff rates under the contemporary import nomenclature, and the origin of such goods;
- c. The name, address and other necessary information about the producers, [and/or] exporters of the goods concerned;
- d. Rates of provisional anti-dumping duty;
- e. The effective date and the applicable duration of provisional antidumping duty.

#### **Article 39. Decision of the Council on Antidumping**

1. Based on the dossier of the antidumping case file as prescribed in paragraph 3, Article 33 of this Decree, within 30 days as from the receipt of such dossier, the Council on Antidumping shall discuss and decide by majority vote on the following matters:

- a. Whether or not imports into Vietnam are being dumped;
- b. Whether or not there is any material injury or threat to cause material injury being suffered by the domestic industry;
- c. Whether or not there is a causal link between such dumping and the injury or threat to cause material injury being suffered by the domestic industry.

2. In cases where the voting results turn out to be on par, the Council on Anti-dumping the Chairman shall have a casting vote.

3. In cases where the Antidumping Council make affirmative decisions, as prescribed in paragraph 1 and 2 of this Article, asserting the existence of dumping and the dumping causes material

injury or threat to cause material injury to a domestic manufacturing industry, the Council shall recommend that the Minister of Trade impose antidumping duties.

**Article 40. Imposition of antidumping duties**

1. In cases where undertakings, as prescribed in Article 21 of the Ordinance on Anti-dumping, are not accepted, the Minister of Trade shall base himself on the final conclusion of the Investigating Authority and the recommendations of the Council on Anti-dumping as prescribed in paragraph 3 of Article 39 of this Decree, to decide on the imposition of an antidumping duty.

Where the imposition of an antidumping duty goes against public interests, the Minister of Trade may issue a decision rejecting the imposition of antidumping duties.

2. The decision on the imposition of antidumping duty shall be publicized, and shall include the following:

- a. The name, address and other necessary information about the Applicant(s) (if any);
- b. Description of the imports subject to the imposition of antidumping duty, including the name of the goods, their main characteristics and major intended use, HS codes and tariff rates under the contemporary import nomenclature, and the origin of such goods;
- c. The name, address and other necessary information about the producers, [and/or] exporters of goods subject to the imposition of antidumping duty;
- d. The name of the countries, [or] territories exporting goods subject to the imposition of the antidumping duty;
- e. A summary of the investigation results addressing the necessity of imposing antidumping duties;
- g. Rates of antidumping duty;
- h. Effective date and the applicable duration of antidumping duty;
- i. Amount of differences on duties to be refunded (if any) as provided in Article 41 of this Decree.

**Article 41. Refund of differentials on duties with respect to provisional anti-dumping duties or deposits**

The difference on duties with respect to provisional anti-dumping duty or deposits, as prescribed in paragraph 3 Article 20 of the Ordinance on Anti-dumping, shall be refunded at duty-collecting points in accordance with the following provisions:

1. In cases where the amount of anti-dumping duty in the final conclusion is lower than the amount of provisional anti-dumping duty, the tax difference in levies with respect to provisional anti-dumping duty, which have already been collected, shall be reimbursed in full;
2. In cases where the Minister of Trade decides not to impose antidumping duties, any provisional antidumping duty or deposits, which have already been collected, shall be reimbursed in full;
3. There shall be no interests on refundable amounts as prescribed in paragraph 1 and 2 of this Article.

**Article 42. Determination of individual dumping margin for exporters, [or] producers who did not export the goods concerned during the period of investigation**

1. In cases where producers, (or) exporters of the goods that are subject to antidumping duties did not export such goods to Vietnam during the period of investigation, on written request, the Investigating Authority shall promptly review and determine individual margins of dumping for such exporters or producers, provided that such exporters, [or] producers can show that they are not related to any of the exporters, [or] producers who are subject to the antidumping duty on the imports or with any of the exporters, [or] producers who are engaged in undertakings to eliminate dumping as prescribed in Section 1 of this Chapter.
2. The individual antidumping duty shall be imposed retrospectively as from the date on which the Investigating Authority receives the written request for determination of individual margin of dumping as prescribed in paragraph 1 of this Article.
3. Where individual antidumping duty is lower than the amounts of antidumping already collected, the tax differentials shall be refunded at duty-collecting points as provided by law. No interests shall be paid on such differentials.

**CHAPTER V  
IMPLEMENTING PROVISIONS**

**Article 43.**

This Decree shall come into force 15 days after the date on which it is published in the gazette.

**Article 44. Implementation**

1. The Minister of Trade shall be responsible for the enforcement of this Decree.
2. The Ministry of Finance is responsible for providing guidance for procedures for collecting and remitting the anti-dumping duties to the state budget; procedures for reimbursement the difference of provisional anti-dumping duty or bonds/deposits.
3. Ministers, heads of ministries and Governmental bodies and chairpersons of municipal and provincial People's Committees are in charge of implementing this Decree.

On behalf of the Government  
Prime Minister  
**PHAN VAN KHAI**

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