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**Committee on Anti-Dumping Practices  
Committee on Subsidies and Countervailing Measures**

Original: English

**NOTIFICATION OF LAWS AND REGULATIONS UNDER  
ARTICLES 18.5 AND 32.6 OF THE AGREEMENTS**

ALBANIA

Revision

The following communication, dated 25 April 2008, is being circulated at the request of the Delegation of Albania.

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In the light of technical adjustments made in the English translation, Albania hereby notifies the revised version of the Law Nr. 9796, dated 23.07.2007.

**REPUBLIC OF ALBANIA  
PARLIAMENT**

**L A W**

**No. 9796, dated 23.7.2007**

**On Antidumping and Countervailing Measures**

Pursuant to Articles 78, 83, point 1 and 121 of the Constitution, upon the proposal of the Council of Ministers,

**PARLIAMENT  
OF REPUBLIC OF ALBANIA**

**DECIDED:**

**CHAPTER I**

**GENERAL PROVISIONS**

Article 1

**Aim**

This law provides the rules of procedures and conditions of determination and implementation of the antidumping and countervailing measures, for the protection of the domestic industry and production, where they are injured and retarded by the unfair practices of international trade, by dumped or subsidised imports.

Article 2

**Definitions**

In this law, the following terms have the following meanings:

1. "Export price" is the price paid or payable for the product, where it is sold for export by the exporting country in the Republic of Albania.
2. "Injury" is the material injury, which is caused to the Albanian industry, the threat of material injury or material retardation of Albanian industry.
3. "Ministry" is the ministry covering the field of trade, in charge of the implementation of this law.
4. "Investigation" is the process of examination to determine the presence, scale and effect of dumped or subsidised imports.
5. "Albanian industry" refers to the Albanian producers as a whole of the like products or to those of them, whose collective product constitutes the major proportion of the total domestic production of those products.

6. "Commission for evaluation of measures on imports", hereunder "commission", is the National collegial authority determining the antidumping or countervailing measures.

7. "Dumping margin" is the difference between the export price and the normal value, in a comparable basis, in accordance with the provisions of this law.

8. "Interested parties" are:

- a) foreign exporters or producers of the product under investigation;
- b) importers of the product under investigation;
- c) associations of business or trade, the majority of members of which are producers, exporters or importers of the product under investigation;
- ç) governments of exporting countries;
- d) Albanian producers of the like product;
- dh) associations of business or trade, the majority of the members of which produce the domestic like product.

9. "Like product" is a product which is identical, with the product under the investigation or, at absence of such a product, another product which, has very similar characteristics to those of the product under the investigation.

10. "Product under investigation" is the product, subject to investigation for antidumping or countervailing measures, as it is explained in the information for initiation of investigation.

11. "Related producers" are the Albanian producers, related to the exporters or importers, where one of them, directly or indirectly, controls the other, or both of them are controlled, directly or indirectly, by a third person, or where both of them control directly or indirectly, a third person.

12. "Subsidy" is the financial contribution, direct or indirect, provided by the Government in the exporting country or country of origin, providing a benefit as it has been provided in Article XVI of GATT, 1994.

13. "Subsidy amount" is the financial contribution, direct or indirect, preserved by the country or origin or exporting country for the manufacturing, production, exporting or transporting the product sold for export, or the total benefits, in the form of income or price subsidy, as it has been provided for in Article XVI of GATT, 1994.

14. "Country" is every state or customs territory, being or not member of World Trade Organisation.

15. "Normal value" is the comparable, paid or payable price, from independent buyers, of the like product, in the ordinary course of trade, for the like product when destined for consumption in the exporting country II.

## DETERMINATION OF DUMPING

### Article 3

#### **General principles**

1. Antidumping measure shall apply to any product, subject to dumping, the import of which into the Republic of Albania causes injury or threaten cause injury the domestic industry.

2. Dumping exists where the export price of product, subject to dumping, exported into the Republic of Albania, is lower than the comparable price for the like product, determined for consumption, in the ordinary course of trade in the exporting country.

3. The exporting country is usually the country of origin. However, exporting country can also be an intermediary country, unless the product passes transit through the intermediary country or it has been manufactured in the intermediary country and has a price in this country.

#### Article 4 **Normal value**

1. To the effect of determining dumping, the Ministry determines the normal value of the product. The normal value of the product shall, where the exporter in the exporting country does not produce or sell a like product, be determined based on the prices of producers or other sellers. At the same time, the prices among the parties, which seem to be related or have a compensatory agreement with each other, shall be treated as being under abnormal conditions of trading and shall not be used for determining the normal value, as long as it has not been established that these prices are not impacted by these relations.

2. As sufficient quantity of the like products in the internal market of the exporting country for the determination of the normal value shall be considered the quantity of 5 per cent or more of the sales in the Republic of Albania. However, there can be taken into account also a smaller quantity of sales, where it is established that this quantity is sufficient for a precise comparison.

3. The normal value of the product under investigation, where, under the normal conditions of trading in the internal market of exporting country, there are no sales of the like product, or where, due to the specific situation of the market or low volume of the sales in the internal market of the exporting country, such sales do not allow a precise comparison, there shall be determined a representative value, in the ordinary course of trade, where it is exported to a third country.

4. The normal value shall be calculated based on the cost of production in the country of origin plus the value determined in point 2 of Article 6 of this law, for the total administrative cost and of a reasonable profit, in accordance with the international accounting rules.

#### Article 5 **Treatment of sales below cost, as sales under not ordinary course of trade**

In determining the normal value, the Ministry takes into account the sales in the ordinary course of trade. The sales of the like product in the internal market of the exporting country or sales in a third country, with a lower price than the total cost for production unit, shall, due to the price, be treated as sales not in the ordinary course of trade and they shall not be taken into account in determining the normal value, unless the ministry determines that:

- a) such sales have been done for a determined period of time (normally one year, but in no case less than six months);
- b) such sales are done in considerable quantities;
- c) weighted average of the sales price of the transaction under consideration is lower than the weighted average of costs per unit or volume of sales under cost per unit consists not less than 20 per cent of the sold volume of transaction;
- ç) such sales are done with prices which do not cover all the costs within a certain period of time.

If the prices under the cost per unit are, at the time of sales, above the weighted average of the cost per unit during the investigation period, the ministry calculates that these prices allow the cover of costs within a reasonable period of time.

#### Article 6

#### **Calculation of costs taken into account in determining the normal value**

1. The ministry shall, normally, calculate two kinds of costs based on the data from the exporter or producer under investigation and from the injured entity/ies, having filed complaints, provided that the data be in compliance with the general principles of accounting in the exporting country and reflect, reasonably, the costs related to the product and to the sales of the product under investigation.
2. The amounts for selling, for general and administrative costs and for profits shall be calculated based on the data in the moment of cost calculation. These amounts are related to the production and sales in the ordinary course of trade of the like product by the exporter or producer under investigation. When such amounts can not be determined on this basis, the amounts may be determined on the basis of:
  - a) weighted average of the actual amounts determined for other exporters or producers, being subject to investigation, manufacturing and selling the like product in the domestic market of the country of origin;
  - b) actual amounts, applicable for the production and sale, in the ordinary course of trade, of the same general category of products, for the exporter or producer in question, in the domestic market of country of origin;
  - c) any other reasonable method, providing that the amount for profit shall not exceed the profit achieved normally by other exporters or producers, in the course of the sales of products of the same general category, in the domestic market of the country of origin.
3. If one of the parties has claims with regard to calculating the cost, done by the ministry, it can, with its own expenses, request an independent expert to re-calculate the cost, after getting the approval of all participating parties in the process.

#### Article 7

#### **Export price**

1. The ministry shall, beside of the normal value, determine also the export price, in the sense of point 1, Article 2, of this law.
2. The ministry shall, where there is no export price or this price is evaluated as not accurate, due to a compensatory agreement between the exporter and the importer or a third party, calculates the price in accordance with the following criteria:
  - a) on the basis of the price at which the imported products are first resold to an independent buyer,
  - b) on any reasonable basis, if the products are not resold to an independent buyer or are not resold in the condition in which they were imported.

In these cases, the export price shall be calculated on basis of all costs, including duties and taxes and for profits, incurred between importation and resale.

In this framework, there shall be taken into account such items of cost, as:

- i) usual transport, insurance, handling, loading and ancillary costs; customs duties;
- ii) customs duty, every anti-dumping duty, other taxes and additional fiscal duties;
- iii) and a reasonable margin for selling, general and administrative costs and profit.

#### Article 8

#### **Comparison of normal value to export price**

1. In order that, the normal value and the export price be comparable, the comparison should be done at the same level of trade, normally at the ex-factory level. In the course of comparison, due account has to be taken of the physical characteristics of the product, quantity and terms of sales, made at that time or as nearly as possible to that time, as well as other differences which affect the comparison.

2. If the normal value and the export price are not comparable, they shall, based on the factors determined in point 1 of this Article, be adjusted and regulated, taking into account the differences in factors, for which it is claimed, and demonstrated to affect prices and price comparability. The factors, for which adjustments can be made are listed as follows:

- a) physical characteristics. The differences in the physical characteristics of the product have to be done taking into account the fact how these differences have an impact on the market price in the country of origin or in the country it has been exported from. Where the data pertaining to the price of country of origin are missing, or the data are not appropriate for a precise comparison, the calculation shall rely on the differences in the physical characteristics and the extent of adjustment has to be proportional to a reasonable evaluation of the market value of the difference;
- b) import duties and indirect taxes. Adjustment of changes in import duties and indirect duties have to take into account that the product has been imported into the Republic of Albania and as such, some of the import duties and indirect taxes, payable for this product or material/s used in it, where they are for consumption in the country of origin or exporting country, are not applicable and these taxes can be reimbursed. The extent of adjustment has to be proportional to the import duty and/or indirect tax;
- c) discounts, rebates and quantities. The adjustment for differences in discounts and rebates has to include even the regulations for the differences in quantity, as long as these are quantities determined appropriately and are related directly to the sales in question;
- ç) level of trade. The adjustment of differences in the level of trade, including every difference which might come up during the sale, shall be done, where, depending from the distribution network in both markets, it is indicated that the export price, including an constructed export price, is at a different trading level from that of the normal value and that the change has had an impact on the comparability of the price, which has come up due to evident and continuous changes in the price of seller, for the different levels of the trade in the market of the country of origin. The adjustment extent shall be based on the value of the difference market;
- d) cost of transport, insurance, trading, and loading and ancillary costs. The adjustment shall be done for the differences in the directly related costs, incurring in the course of transport of the product in question from the buildings of the exporter to an independent purchaser, where such costs have been included in the established prices. These costs shall include the cost of transport, insurance, trading loading-unloading and ancillary costs.
- dh) packing. The adjustment shall be done for the differences in the cost of packing, related directly t the product in question.

- e) credits. The adjustment shall be done for the changes in the cost of a credit granted for the sales in question, as long as it is a factor which has been taken into account in determining the set out prices;
- ë) post-sale costs. The adjustment shall be done for the changes in the direct cost of ensuring the guarantees, pawns, assistance and technical services, as they have been provided for in the law and/or in the sales contract;
- f) commissions. The adjustment shall be done for the differences in the commissions paid for the sales in question.
- g) currency exchange. Where the comparison requires the exchange of currency, such an exchange shall take place using the official exchange rate on the date of sales. The date of sales is the date of bill, but there can be taken also the data of contract, order of purchase, confirmation of order, as long as there have been determined clearly the material conditions of the sale. The fluctuations in the exchange rate shall not be taken into account and the exporters shall be left, at least, 60 days time for regulating their export prices and to reflect the movements brought about in the exchange rate during the investigation period.

#### Article 9

#### **Margin of dumping**

1. The margin of dumping implies the percentage where the normal value is higher than the export price.
2. The value of margin of dumping shall be determined comparing the weighted average of normal values to the weighted average of the prices of export in all the transactions, or comparing, for every transaction, the normal individual value to the individual price of export.

The value of dumping margin, determined on the basis of the weighted average, can be compared to all the prices of the individual transactions of the export, even if there is a list of export prices from buyers, regions or different time periods and where the methods determined in this point do not reflect the complete level of practiced dumping.

If the margin of dumping is variable, the weighted average of all the calculated margins can be applied.

### CHAPTER III

### DETERMINATION OF SUBSIDY

#### Article 10

#### **General principle**

The countervailing measure shall be imposed towards a specific subsidy for the products imported into the Albanian market, causing injury or threat to injury to the domestic industry.

#### Article 11

#### **Determination of subsidy**

For the propose of this law, there is subsidy, if:

- a) there is financial contribution by the government or another state authority in the territory of a country, where the Government:

- i) makes public payments, with the consequence of direct transfer of funds as credit, aid, loan, capital entry, eventual direct transfers of funds or guarantees on the loans;
  - ii) revenue that is otherwise due is foregone or not collected as fiscal incentives such as tax credits in accordance with the provisions of Article XVI of GATT, 1994;
  - iii) provides different goods or services from the general infrastructure or purchases goods;
  - iv) makes payments into a financing mechanism or tasks or orders a private entity to perform one or many of the functions mentioned in sub-paragraphs "i", "ii" and "iii" above, which normally belongs to the Government and the practice, in no real sense, differs from practices normally followed by government.
- b) there exists any form of income or price support, in accordance with Article XVI of GATT, 1994;
  - c) a benefit is thereby conferred.

The exemption of an exported product from the liabilities or taxation, as long as the product is for consumption in the internal market, or exemption from import duties or taxes does not exceed the limits of payable liabilities, shall not be evaluated as subsidy.

#### Article 12

#### **Specific subsidies**

1. The subsidies are subject to the implementation of the countervailing measures only if they are specific. The subsidy is specific for an enterprise or industry or for a group of them, which later are defined as "specific enterprises", where the authority determining it, or the legislation, based on which this authority acts, restricts clearly the possibility of their acquisition from certain enterprises.

2. The subsidy is not specific if the authority or the legislation, based on which this authority acts, establishes criteria or objective conditions, which discipline the performance of obligation or amount, provided that the obligation be imminent and these criteria and conditions are abided by strictly.

Criteria or objective conditions are the criteria and conditions which are impartial, not favouring certain enterprises and which are of an economic nature and with horizontal implementation, as is the number of employees or size of enterprise. The criteria or the objective conditions have to be explained in detail in law or/and in other official documents, which may be verified.

Where is considered that there is a specific subsidy, despite the non-existence of the specification mentioned in the above paragraph, there can be taken into account another factor, for e.g., the use of a program of subsidies by a limited number of enterprises, evident productivity of certain enterprises, granting of subsidies beyond the limits which are evaluated high for certain enterprises, way how the granting authority has exercised its power to make the decision for the cases of the refusal or approval of the requests for subsidy and grounding of decisions.

3. There shall be evaluated as specific the limited subsidy for certain enterprises, located in a certain geographical zone, within the jurisdiction of the granting authority.

Imposing or changing the level of taxes of general applicability by every level of public administration, which has this power, shall not be evaluated specific subsidy for the purposes of this law.

4. Regardless of the provisions of point 1 and 2, there shall be evaluated specific the following subsidies:

- a) conditioned subsidies, in law or fact, having an impact on the performance of exports.

There shall be evaluated conditioned subsidy having an impact on the performance of exports, where it is established that the granting of such a subsidy, although it has not become legally conditioned having an impact on the performance of the exports, actually turns out related to the benefits from the present or expected exports.

- b) conditioned subsidies, having an impact on the use of domestic products to the imported ones.

5. The determination of the specification, according to the provisions of this article, has to be clearly established, based on positive data.

#### Article 13

##### **Calculation of amount of countervailing subsidy**

1. The amount of countervailing subsidy has to be calculated in accordance with the benefit, which has been granted to the beneficiary of subsidy.

2. The investigation period shall be the last year of keeping the accounts by the beneficiary, but it can also be a period of at least 6 months period to the initiation of investigation, for which there are reliable financial data.

#### Article 14

##### **Calculation of the benefit for beneficiary of subsidy**

In calculating the benefit of the beneficiary of the subsidy, there shall be applied the following rules:

- a) purchase of the shareholder capital by the Government shall not be evaluated to bring any benefit, but only if the investment, in the territory of the country of origin and/or exporting country, is not in accordance with the ordinary practice of investment (including the risk value of the share holder capital);
- b) a loan from the Government shall not be evaluated to bring any benefit, but only if there exists a difference between the amount, which the debtor company pays on the governmental loan and the amount it would pay for a comparable commercial loan, which it could get in the market. In this case, the benefit would be the difference between the two amounts.
- c) the guarantee of the loan shall be considered to bring any benefit, but only if there exists a difference between the amount that the company, benefiting the guarantee, pays on the loan guaranteed by the Government and the amount it would pay for a comparable commercial loan, in absence of the governmental guarantee. In this case, the benefit would be the difference between the two amounts, regulated for any difference in payments;
- ç) sale or purchase of goods and offering of services by the Government shall not be evaluated to bring benefits, but only if they have been done under the market price or where the purchase has been done for more than the market price. The market price shall be determined based on the circumstances of the existing market for the product

or service in question, at the place of sale or purchase, along with the price, quality, validity, marketability, transport and other conditions of purchase or sale.

#### Article 15

##### **General principles of calculation**

1. The amount of the countervailing subsidies shall be calculated per unit of subsidised product, exported into the Republic of Albania.
2. Out of the calculation of this amount, there can be deducted:
  - a) tax of application and new expenses, necessary to ensure the subsidy;
  - b) export duties, taxes or other payments, which are deducted from this product exported into the Republic of Albania, which, specifically, aim at compensating the subsidy.
3. The subject, which is requesting for the deduction, should be convincing, in his request.
4. Where the subsidy is not granted proportional to the produced, exported or transported quantity, the amount of countervailing subsidy shall be determined spreading evenly the total amount of subsidy, according to the production, sales or exporting level of the products in question, for the period being subject to investigation for subsidies.
5. Where the subsidy leads to the current or expected sale of a tangible asset, the amount of countervailing subsidies shall be calculated spreading the latter for a period coinciding with the normal period of depreciation of this tangible asset in the sector in question. The amount calculated in this way shall be imposed on the investigation period, taking into account that the amount stemming from the tangible assets, insured prior to this period, shall be spread as it has been provided for in point 4 of this Article.

Where the assets are non-depreciable, the subsidy shall be evaluated as a loan without interest and it shall be dealt with in accordance with provisions of letter "b" of Article 14 of this law.

#### Article 16

##### **Methods of calculating the subsidy amount**

1. The amount for subsidising a foreign producer or exporter for the product under investigation shall be calculated for every investigated subsidy or program for subsidy, in accordance with point 2 of this Article. The total of these amounts for subsidy or subsidy program shall be the total amount of subsidising the producer or exporter of this product.
2. The commission shall, in calculating the amount of subsidy of some foreign producers or exporters of the product under investigation, from a subsidy or program of a certain subsidy, determine:
  - a) in the first phase, the total amount of the subsidy to the producer or exporter from a subsidy or program of a certain subsidy, as well as the date of acquiring the subsidy;
  - b) in the second phase, that part of the total amount of the subsidy, which shall be imposed on the period of the investigation of subsidy;
  - c) in the third phase, the total amount of sales (during the period of investigation of subsidy) of the foreign producer or exporter, to which there shall be attributed the period of investigation of subsidy.

## Article 17

**Calculation of the amount of specific subsidy**

1. The commission shall, normally, determine an amount of specific subsidy for each foreign producer, or exporter known, operating with the product under investigation.
2. The commission can, despite the provision contained in point 1 of this Article, where the number of the exporters, producers and importers interested of types of products is very high, limit the investigation to a number of interested parties or products under investigation, using statistically valid examples, based on the data available at the time of selection, or up to the highest percentage or the region of export from that country, which can, reasonably, be investigated.
3. Every selection from the exporters, producers, interested importers of the kinds of products, done in accordance with point 2 of this Article, shall be done following the consultations with exporters, producers or importers.
4. Where the commission restricts the investigation in accordance with points 2 and 3 of this Article, it determines an amount of specific subsidy for each foreign, known producer or exporter, who submits voluntarily and in time the necessary documents, which shall be taken into account during the investigation. Regardless of the previous acknowledgement, where the number of exporters or producers is considerable, so that the specific investigation would be an overload for the commission, it can refuse determining the measures of specific subsidies, based on such responses and it can restrict the investigation only to exporters and producers.

CHAPTER IV  
EVALUATION OF INJURY CAUSED BY DUMPING  
OR SUBSIDY AND CASUAL LINK

## Article 18

**Determination of injury**

1. There shall be determined injury or threat to injury from the dumped or subsidised imports, not only where it, directly, causes injury to the domestic industry, but also where it causes the evident slowdown of the development or retardation the establishment of such industry.
2. The determination of injury shall be based on the data of industry and includes the examination of the following elements:
  - a) volume of dumped or subsidised imports, specifically if this volume has increased in absolute or relative terms compared to the production or consumption in the Republic of Albania;
  - b) quantity of dumped or subsidised goods, compared to the market needs of the importing country for these goods;
  - c) effects of dumped or subsidised imports in the price of like products in the market of Republic of Albania;
  - ç) further impact of these imports on the domestic producers of the like products in the Republic of Albania. This element can be evaluated by the economic, current or potential indicators, such as the fall of sales, possession of market, productiveness, profit, negative impact in reserves, employment, salaries, liquidities, investment and level of prices.

Article 19

**Examination of volume of dumped or subsidised imports and their effect on the prices**

1. The ministry requests from the customs authorities monthly reports with regard to the volume of dumped or subsidised imports, if there is evident increase of subsidised or dumped imports, whether in absolute terms or compared to the production or consumption in the Republic of Albania.
2. With regard to the effects of dumped or subsidised imports in the prices in the domestic market, the ministry examines:
  - a) whether there has been any evident reduction in price leading to the interruption of the production of the like product;
  - b) whether there has been delayed, at an evident rate, the increase of prices, which normally would have had occurred.

Article 20

**Accumulation**

Where imports of like products from more than one country are simultaneously subject to investigation for antidumping or countervailing measures, the commission evaluates in a summary their effect, only if the ministry determines that:

- a) margin of dumping or amount of subsidies, put on the imports by each country, is higher than the de minimis, as it has been determined in Article 27 of this law and that the volume of imports from each country is considerable;
- b) the cumulative assessment of the effects of imports, with regard to the competition, through the imported products and like domestic products, is appropriate.

Article 21

**Examination of impact of volume of dumped or subsidised imports on the domestic industry**

1. The commission shall, during the examination of impact of volume of dumped or subsidised imports on the Albanian industry, evaluate all the stakeholders and respective economic indicators having an impact on the industry, such as:
  - a) current or potential reduction of sales, profits, production, possession of market, productivity, returns from investments, as well as utilisation of the capacity;
  - b) factors, having an impact on the domestic prices;
  - c) negative, real and possible effects on the cash flow, employment, salaries, growth, ability for capital or investment growth;
  - ç) margin of dumping or amount of subsidies.
2. The commission evaluates the effects of dumped or subsidised imports on the Albanian production of like products, based on the data which make possible the identification of that product, according to the process of production, sales and profits of the producer. Where for the product such an identification is not possible, the effects of the dumped or subsidised imports shall be evaluated examining the production of the narrowest group of products, including like products, for which the necessary information can be provided.

Article 22  
**Threat of material injury**

1. The threat for material injury shall be determined in a situation during, which a substantial injury can happen.
2. The commission determines the existence of the threat for material injury based on the facts.
3. The commission shall, in determining the existence of the threat for material injury, in addition to the factors mentioned in Article 21 of this law, examine also the following factors:
  - a) type of subsidy/ies and eventual effects on the market;
  - b) significant rate of increase of dumped or subsidised imports, indicating the likelihood of substantially increased imports;
  - c) prices of imports, to prevent a discriminating effect of prices of Albanian products, which would probably increase demand for further imports;
  - ç) capacity growth of exporters, which would increase considerably the entry into the domestic market of the dumped or subsidised imports, taking into account other export markets, which could absorb additional exports;
  - d) the supply or inventory of the product being investigated.
4. Where it is established that a threat of injury caused by dumped or subsidised import exists, the commission takes decisions on the implementation of the antidumping or countervailing measures.

Article 23  
**Casual link**

1. The commission, pursuant to the analysis of the respective data for the factors determined in Articles 18-22 of this law, verifies the existence or not of the casual link between the dumped or subsidised imports and the injury or threat of injury to the domestic producers.
2. The commission, also examines other factors besides the dumped or subsidised imports which at the same time are injuring the Albanian industry, and the injuries caused by these other factors must not be attributed to the dumped or subsidised imports. Factors which may be relevant in this respect include, inter alia:
  - a) volume and prices of the not dumped or subsidised export, of a certain product;
  - b) contraction in demand or changes in the patterns of consumption;
  - c) practices restricting the trade and competition between the domestic and foreign producers;
  - ç) technological developments;
  - d) exports performance and productivity of the domestic industry.

CHAPTER V  
INVESTIGATION AUTHORITIES

Article 24

The ministry covering the commerce is the institution responsible for the implementation of the provisions of this law, for the regulatory instruments in the international commerce.

Article 25

**Commission for evaluating measures on imports**

1. The examination of anti-dumping, countervailing measures and safeguard measures on imports, in accordance with this law, shall be done by the commission for the evaluation of measures on imports, which has been established and functions, in accordance with Article 4 and 5 of the law no 9790, dated 19.07.2007 "On safeguard measures on imports".
2. In addition to the provisions set out in Article 6 of the law no 9790, dated 19.07.2007 "On safeguard measures on imports", the commission drafts the rules of application and procedures of antidumping and countervailing measures.

CHAPTER VI

INITIATION OF INVESTIGATION

Article 26

**Conditions for application and filling in of forms**

1. The investigation to determine the existence, extent and effect of dumped or subsidised imports and the casual link between them starts with a written request by/on behalf of the Albanian industry. In specific cases, the ministry starts the investigation upon its own initiative and with the approval of the commission. In this case the ministry should have sufficient evidence, in the sense of chapter IV of this law.
2. For applications there are used forms, which shall be approved by the commission and shall be available at the ministry and contain the following data:
  - a) name, address and phone number of applicant;
  - b) name, address and phone numbers of all domestic producers, of like products, on behalf of which the application is filed;
  - c) data on the extent of support of Albanian industry for the application, including the value and total volume of the Albanian production of the like product and the volume and value of the like product, manufactured by the applicant or every other identified Albanian producer;
  - ç) a description of the product, which is claimed to be dumped or subsidised, including the technical characteristics and its duty code;
  - d) country where the product claimed to be dumped or subsidised has been produced or manufactured, and, if imported from another country, the intermediary country, from which the product has been imported;
  - dh) names and address of every exporter or foreign producer and the list of persons, known as importers of the product in question;
  - e) data on the price of product, subject to dumping, if the product has been foreseen for sale in the market of the country of origin, of exporting country or for the existence, quantity and nature of specific subsidy;
  - ë) casual link between the dumped or subsidised imports and the injury caused to the domestic industry. The data on the increase of the volume of imports, which are claimed to be dumped or subsidised, the effect and further consequences on the prices of the domestic like products in the Albanian market, as it has indicated by the factors and the respective indicators, having an impact on the situation of Albanian industry.

## Article 27

**Decision on initiation of investigation**

1. The ministry shall, after examining the accuracy and sufficiency of data contained in the application, submit them to the commission for evaluation. The applicant may be asked for further data, prior to making the decision for the initiation of investigation.
2. Where the commission starts to initiate an investigation without having received any written request from/or on behalf of the domestic industry, the decision shall be based on sufficient data for the dumping or subsidy, injury and casual link, in accordance with Chapter IV of this law.
3. In making a decision for the initiation of the investigation there shall be taken into account also the data on the dumping or subsidy and the incurred damage. The application for the initiation of investigation shall be rejected, if there are no sufficient data to justify the continuation of proceedings. There shall not be undertaken actions with regard to countries, the imports of which represent a market share of less than 1 per cent, only if these countries, jointly, are calculated to be more than 3 per cent of the domestic consumption.
4. The investigation shall not be initiated in accordance with points 1 and 2 of Article 26 of this law, as long as it is not established based on a control that:
  - a) written request has been done by/or on behalf of the domestic industry;
  - b) extent of support or opposition to the request for application has been expressed by the domestic industry of the domestic product.
5. The application shall be evaluated to have been done "by/or on behalf of the domestic industry", only if it is supported:
  - a) by Albanian producers, the collective production of whom consists more than 50 per cent of the total production of the like product, produced by the producers who have expressed themselves in favour or against the application;
  - b) by Albanian producers, expressing themselves in favour of the application, the production of which constitutes not less than 25 per cent of the total production of the like product of the Albanian industry.
6. Every application, in accordance with the provisions of this article, can be withdrawn prior to the initiation of investigation. In this case it is considered not to have been submitted.
7. Where the commission decides not to initiate the investigation, the country shall be notified in writing to the applicants through the responsible ministry.
8. The ministry requires from the commission to decide on the initiation or not of an investigation with regard to antidumping or countervailing measures within 45 days, since the date of submission of written application. Where the ministry requires from the applicant additional data, this time period may be extended up to 60 days.
9. The commission does not initiate any investigation for that imported product, where it is claimed that it is:
  - a) subject to dumping, if according to the collected data it is established that the dumping margin is less than 2 per cent or the current and potential volume of dumped imports is insignificant;

- b) subsidised, if with regard to the data collected it is established that the amount of subsidies is less than 2 per cent or the current or potential volume of subsidised imports is insignificant.

#### Article 28

##### **Notification of initiation of investigation**

1. Upon reception of the notification from the commission for initiating an investigation procedure, the ministry shall:

- a) notify the states, the products of which are subject to investigation and the interested parties, such as the exporters, importers and interested representative associations of importers and exporters, as well as the country or origin and/or exporting country and the petitioners;
- b) publish in the Official Journal and in a newspaper with a wide circulation in the Republic of Albania.

2. The publication and the other notifications shall contain the following data:

- a) name of exporting country or countries, or, if it is not the country in question, the name of country or countries of origin of the product under investigation;
- b) a description of the product under investigation, including the technical characteristics, the use and current number of classification;
- c) description of the practices of dumping or subsidising;
- ç) summary of factors, on which the claim of injury is based;
- d) address, that the representations of interested parties have to refer to;
- dh) date of initiation of investigation;
- e) time limits, within which the interested parties are allowed to make known their evaluations.

3. The investigation shall start on the day when the public notification is made, in accordance with letter "b" of point 1 of this Article.

#### Article 29

##### **Duration of investigation**

1. The ministry shall, except in specific cases, conclude the investigations in the antidumping measures or countervailing measures within one year, and in no case, later than 18 months after their initiation.

2. The procedures on antidumping or countervailing measures should not detain the customs authorities. Upon taking of measures, no other additional formality shall be accomplished, except those related to the implementation of these measures.

#### Article 30

##### **Public file and right to information**

The ministry shall, for every investigation and in accordance with the request for the protection of the confidential data, set up a public file, which shall periodically be complemented with the following:

- a) all the public reports for the investigation or review;

- b) all the materials, including the questionnaires, responses to questionnaires and written notifications which have been submitted to the commission;
- c) all the other data, worded or received by the commission, including any other verification report which has been worked out;
- ç) all other documents, evaluated as appropriate for public notification.

The file shall be made available to the interested parties in any phase, during the investigation as well as review, or judicial proceedings.

#### Article 31 **Collection of data**

1. The commission shall, upon initiation of the investigation, have the obligation to send, through the ministry, a questionnaire to every person, that according to it, could have information on the case under investigation, including the known domestic producers, importers, exporters, foreign producers and governments of countries of the products which are under investigation.
2. The commission shall provide to the exporters, foreign producers and those of the interested countries the questionnaires within 45 days to respond. This time limit shall be calculated from the day of lodging the questionnaire or from the day when it was sent to the diplomatic or official representation of the exporting country. If there is a request for extending the time period for responding, the commission shall take it into account, if it is argumentative, the questionnaires shall be written in two languages, in Albanian and English.
3. The commission can, through the ministry, request during the investigation, from the interested parties, additional information, in the form of questionnaires or written requests, additional clarifications or information. In this case the commission shall determine the time period within which the feedback has to be submitted.

#### Article 32 **Hearings**

1. Upon the written request of each interested party, the ministry shall set a hearing, where the interested parties, affected by the turnout of the conclusions or having certain motives, for which have to be heard, shall submit data and arguments on the case in question. The hearings shall be held not later than 60 days prior to the date proposed for making the final decision.
2. In line with the request, the ministry shall provide to the interested parties the possibility to meet. The participation of interested parties in the meeting is not mandatory and failure to participate shall not consist a prejudice to any party.
3. The interested parties, wanting to be involved in the hearings, shall send to the ministry the names of representatives or witnesses, who shall appear in the hearing, at least 7 days prior to the hearing date.
4. The interested parties shall also be entitled, where they do not agree to the decisions of the ministry, to submit to the commission orally, in the course of meetings, every other additional data. The commission shall keep detailed minutes and include them in the public file, however without the confidential data.

Article 33

**Contributions of the consumers and users association**

The ministry shall provide the possibility to the applicants, government of country of origin and/or exporting country, importers and exporters and their associations, users of the product under investigation in the Republic of Albania, as well as organisations of consumers that, by written request, control all the data used during investigation, which have been made available to the commission, as a specific internal documentation, necessary to the presentation of their cases which is not confidential, in the sense of Article 48 of this Article. Such parties may provide their comments on these information and their comments shall be taken into consideration, if they are sufficiently verifiable.

Article 34

**Final decisions**

1. The complainants, exporters and their representative associations and the representatives of the exporting country may request the disclosure of data, details and important facts, based on which there have been taken the measures. The request for disclosure shall be made in writing, immediately after imposing the definitive measures. At the same time, the above mentioned parties may request the final disclosure of the main facts and elements, on the basis of which there has been deemed the imposition of the final measures, the conclusion of an investigation or procedures, without imposing the measures.

2. The request for final disclosure shall be addressed to the ministry in writing and shall be accepted where a provisional duty has been applied, not later than one month after the publication/disclosure of application of this tax. In case where a provisional duty is not applied, the parties shall be provided the possibility to request the disclosure, within the time periods set out by the commission.

3. The final disclosure shall be provided in a written form, by means of a publication. This disclosure shall be made as soon as possible, normally not later than 1 month prior to the final decision or acceptance by the commission of the proposal for taking the final measures, taking into account the protection of confidential measures. Where the commission can not find certain facts or elements at a certain point, this disclosure shall be made at a later point.

4. Where the commission, upon the completion of investigation, has taken a decision, it shall make this decision public. Along with the publication of decision, the notification should include all the information pertaining to facts, law and reasons which lead to this decision, taking care of preserving the confidential information and specifically for:

- a) names of exporters and known producers of the product under investigation;
- b) description of product under investigation, making available the data to the extent sufficient for making customs actions (customs duties), including the current Albanian classification of data;
- c) explanations on dumping or subsidy, for the period of investigation of caused injury, if applicable;
- ç) margin of dumping and amount of subsidy identified and the bases on which there has been established that this dumping or subsidy exists;
- d) factors which come to the determination of injury and the casual link, including also the data for these factors, except the dumped or subsidised imports, which have been taken into account;
- dh) every other reason, which has come to the final decision;

- e) Reasons for accepting or rejecting the arguments or respective petitions, filed by the exporters and importers;
- ë) amount of antidumping or countervailing measures, decided to be imposed, taking in consideration the interest of Republic of Albania;
- f) cases where the antidumping or countervailing measures have to be collected from those imports, for which there have been applied the preliminary measures, being reason for taking this decision.

5. The notification shall be published in the Official Journal and in a wide circulation newspaper in the Republic of Albania. The notification shall be sent also the country, the products of which have been subject to this definition, as well as to other parties, which are known to be interested.

6. After the publication of the final decision, upon the request from interested parties, within 15 days of the publication, the ministry, organises separate and open meetings with exporters or producers, requesting this meeting, explaining the methodology used on the calculation of dumping or amount of subsidy, applied finally for the products of this exporter or producer.

## CHAPTER VII COMPLETION OF INVESTIGATION

### Article 35

#### **Provisional measures**

1. The commission may impose provisional measures, as long as investigation has started, in accordance with provisions of Article 27 of this law, where there has been made the public notification to this effect, if the appropriate possibilities have been provided to the interested parties to send the data and to make comments, if there has been made a confirming preliminary determination of the dumping or subsidies and of the subsequent damage for the Albanian industry and if taking of provisional measures for preventing cause of injury is in the interest of Republic of Albania.

2. The provisional measures may be in the form of additional financial payments or of a guarantee, deposit in cash or bonds, not higher than the margin or dumping or amount of subsidy evaluated in advance.

3. En every event, the implementation of provisional antidumping or countervailing measures is a condition for the free circulation in the Republic of Albania of the product under investigation.

4. The provisional measures shall be imposed not earlier than 60 days and not later than 9 months from the initiation of the investigation procedures.

5. The amount of the provisional antidumping or countervailing measure can not, respectively, exceed the dumping margin or the total amount of repayable subsidies, established temporarily and it should be lower than this margin or amount, as long as a lower amount is sufficient for eliminating the injury, which has been caused to the Albanian industry.

6. The provisional measures shall apply for a period not longer than 6 months. Upon the request of the exporters making up an important percentage in the market, the commission can extend the period of imposing the provisional duties, but not more than 9 months.

7. In accordance with the provisional measures, there shall apply the conditions provided for in Article 41 of this law.

Article 36  
**Undertakings**

1. The ministry can request from the commission to suspend the investigation without imposing provisional or final measures, if the former is certain that by assumption of satisfactory voluntary undertakings by every exporter to review the prices or to interrupt the exports with the prices being subject to dumping, or to eliminate or restrict the subsidising of exports in the country in question, for as long as these exports benefit from countervailable subsidies, for eliminating the injuring effects of dumping or subsidy. The increase of price, in accordance with such a undertaking, shall not be higher than the necessary value for eliminating the dumping margin or the amount of the subsidies subject to countervailing measures and it should be lower than this margin or amount, as long as such an increase would be appropriate for avoiding the injury which has been caused to the Albanian industry.
2. The undertaking for prices can be suggested by the ministry or by the exporter, but no exporter shall be forced to such undertakings. The fact that the exporters do not undertake such undertakings or do not follow the invitation for such a thing, does not have any impact on prejudicing of the case. The undertakings shall not be accepted and shall not be made known by the countries or exporters, as long as there has not been made a conforming determination of dumping or subsidy and injury caused by them.
3. The offered undertakings shall not be accepted, if the ministry evaluates them as inappropriate. If the ministry decides not to accept the undertaking, it shall inform the exporters on the reasons that led to the determination of the undertaking as inappropriate and, as appropriate, shall provide to the exporters the possibility to forward their comments in writing over this issue. The reasons for restricting this undertaking shall be forwarded in the final decision.
4. The undertakings of the exporter shall be accepted by the ministry and approved by the commission.
5. If undertakings are accepted by separate exporters in the course of investigation, they start to have effect from the date of completion of investigation for the country of origin and/or export.
6. The ministry shall request from every exporter, the undertakings of which have been accepted, to inform periodically in the fulfilment of these undertakings and allow the verification of the respective data. The communication of these data shall be subject to the provisions for confidentiality. Failure to provide these data consists a violation of the undertaking.
7. The ministry shall require from the parties, offering a undertaking, to provide a non-confidential version of this undertaking, so that the data be available also to the other parties interested in the investigation.
8. In the events where the ministry refuses the undertakings, the exporter is entitled to file a complaint with the commission, which, after asking for clarifications from the ministry, decides the acceptance or not of the request of the exporter.
9. If the undertakings are accepted, the investigation for dumping or subsidy and caused injury shall be terminated. In case the investigation has been concluded with a negative determination of the dumping or subsidy and the caused damage, the assumed undertaking ends automatically, except the case where such a determination has come mainly due to the existence of a undertaking. In these cases, the commission can decide on the continuation of undertaking for a reasonable period. In case the investigation has been concluded with a positive determination of dumping and subsidy and caused damage, the assumed undertaking shall continue in accordance with the provisions of this law.

10. The ministry is obliged to publish the notification of the agreement for the assumption of the undertaking, where it can also include even the other elements of this agreement.

11. In the event of failure to abide by the undertakings assumed in accordance with the provisions of this law, the ministry can undertake immediate actions related to the proposal of the commission for the immediate imposition of temporary measures, making use of the best data available to it. At the same time, where there are violations or withdrawals of undertakings, there shall be imposed definitive duties, based on the facts indicated in the course of investigation, which led to assuming the undertaking, if the investigation has been concluded with a final determination of dumping or subsidy and caused injury.

#### Article 37

##### **Ending without approval of measures**

1. The commission concludes the investigation without taking any measure, if a request is withdrawn at any time after the initiation of investigation, unless the commission decides differently, as well as the investigation shall be concluded if the commission determines that the measures are unnecessary.

2. An investigation shall be immediately terminated, at any time where the commission is satisfied that there are no sufficient data, be it for dumping or subsidies and injury, which would justify the continuation of investigation, or if the commission determines that the margin of dumping or amount of compensating subsidy is minimal, as it has been provided for in point 9 of Article 27 of this law or if the volume of dumped or subsidised imports, current or potential, is insignificant, as it has been provided for in point 3 of Article 27 of this law.

#### Article 38

##### **Public notification on termination of investigation without imposing measures**

The commission is obliged to make the public notification on the termination of investigation without imposing measures, paying due attention to the details on taking this decision, legal conclusions, as well as preserving the confidential data.

### CHAPTER VIII

#### APPLICATION AND COLLECTION OF ANTIDUMPING OR COUNTERVAILING MEASURES

#### Article 39

##### **Observation of the interest of the country and lowest amount rule**

1. Where after the examination of facts the ministry determines the existence of dumping or subsidy and caused injury as a consequence of them, and after taking into account the interest of Republic of Albania, the commission imposes the final antidumping or countervailing measures. In case the temporary antidumping or countervailing measures are in effect, the ministry proposes to the commission the imposition of the permanent measures, not later than 1 month prior to the expiry of temporary measures.

2. The antidumping or countervailing measure should exceed respectively the margin of dumping or amount of subsidy, from which there have benefited the exporters and it should be lower, in case it is sufficient for eliminating the injury which has been caused to the Albanian industry.

#### Article 40

#### **Imposition and collection of antidumping and countervailing measures**

1. The antidumping or countervailing measures should assume the form of additional financial payments, in specific or variable value. The antidumping or countervailing measures are different from the other import duties, imposed for the respective imported products. The antidumping or countervailing measures should be collected by the respective customs authority, at the appropriate amount, without discriminating the imports of products, for which it is established from all sources that they are dumped or subsidised and causing injury, except the imports from the sources, the undertakings of which have been accepted in accordance with the provisions of this law.

2. In case the ministry has restricted the control, all the antidumping or countervailing measures applicable on the imports done by exporters or producers not being included in the investigation, shall not be higher than the weighted average value of the margin of dumping or amount of subsidy, submitted for selected exporters or producers, provided that the commission shall not take into account the margin of dumping or amounts of subsidy, which are zero or minimal.

3. The commission can apply the remaining part of the antidumping or countervailing duty on the imports from unknown exporters or producers for the commission at the moment of taking the final decision. The remaining part of the antidumping or countervailing duty can not be higher than the weighted average of margins of dumping or individual measures of subsidy, imposed for exporters and producers which were investigated.

4. None of the products can simultaneously be subject to the antidumping and countervailing measures, for the rectification of the same situation, which turns out from the practice of dumping or granting of subsidies for export.

#### Article 41

#### **Retroactivity**

1. The temporary and permanent antidumping and countervailing measures shall be applied for products which enter into free circulation in the Republic of Albania, following the entry into effect of the measure determined upon the completion of investigation.

2. Where a temporary measure has been imposed and finally established facts indicate the existence of dumping or countervailing subsidy and injury, the commission shall impose a final antidumping or countervailing measure, on the share of the temporary measure which shall be collected. Thus the injury shall not have an impact on the establishment of a domestic industry or on the threat to injure, unless there has been reached the conclusion that these have, in absence of temporary measures, turned into material injury. In all the other cases, the final measures can be imposed only on the date of the final determination of the threat.

3. In case the ministry has imposed a temporary lower measure than the permanent antidumping or countervailing measure, the difference shall not be added up. If the final measure is lower than the temporary measure, the measure has to be re-calculated. Where in the final determination the amount turns out zero, the temporary measure shall not be approved.

4. A permanent antidumping or countervailing measure can not be imposed on the products which have entered into the Republic of Albania for consumption, not later than 90 days prior to the date of application of the measure, but not earlier than the start of investigation, if the commission has provided the possibility to the importers to comment and:

- a) for the dumped or subsidised product there exists of history of dumping or subsidy, according to which the injury has been caused by massive imports, in a relatively short period of a dumped products which benefits from the countervailing subsidy;
- b) in order for such a damage not to be damaged, it is necessary to determine the amount of retroactive antidumping or countervailing measures on these imports.

5. In the event of violation or withdrawal of the undertakings for the goods having entered into the Republic of Albania not later than 90 days prior to the application of temporary measures, there can be imposed the permanent measures, if no retroactive determination shall be imposed on the imports, having entered prior to the violation or withdrawal of undertakings.

## CHAPTER IX DURATION, REVIEW AND REIMBURSEMENT

### Article 42

#### **Duration**

1. The antidumping or countervailing measure shall be in force for as long as it is necessary for neutralising the dumping or subsidy, which has caused injury to the domestic industry.
2. Every final antidumping or countervailing measure shall be repealed not later than five years following the date of imposing it or date of latest review, as long as the review has covered the dumping or subsidy, and the damage, with the exception of the cases where the outcome of the review has been that the ending of this measure can lead to the continuation or re-occurrence of the dumping or subsidy and injury.

### Article 43

#### **Review**

1. The review starts if there are sufficient data that the expiry of the measures duration can lead to the continuation or re-occurrence of dumping or subsidy. This is indicated based on the data on the continuation of dumping or subsidy or the data that avoidance of this injury is partially or wholly due to the existence of measures.

Where the commission starts a procedure for the review of the imposed measures, upon its own initiative, upon a written request or on behalf of the domestic producers, the measure remains in force until the announcement of the review turnout.

2. In the course of investigation, in accordance with point 1 of this Article, the ministry should provide the opportunity to the exporters, importers, representatives of exporting country and domestic producers to complement with data or file an objection to the issues contained in the review request. While drawing the conclusions, there have to be taken into account all the documented and appropriate data, submitted for the case in question, as well as the fact when the expiry of duration of measures can lead to the continuation or re-occurrence of dumping or subsidy or injury.

3. The commission shall, not later than 90 days prior to the expiry of the measure, publishes in the Official Journal and in a newspaper with the widest circulation in the Republic of Albania, the notification on the imminent removal of the antidumping or countervailing measures. However, the temporary measure can not be removed if the commission, in a review started prior to the expiry date, upon its own initiative or upon a request filed in accordance with the rules by/or on behalf of the Albanian industry, draws the conclusion that the removal of this measure can lead to the continuation or re-occurrence of the phenomenon of dumping or compensatory subsidy and damage. The procedure should be completed within 45 days from the public notification of the imminent removal of antidumping or final countervailing measures.

4. According to this Article, the commission initiates a review procedure, upon its own initiative or upon written request from/or on behalf of the Albanian industry, after passing a reasonable period of time, at least one year, since the imposition of the permanent antidumping or countervailing measure, to consider whether the request contains sufficient data on the indispensability of a temporary review. The temporary review starts if the request contains sufficient data for the non-continuation of the dumping or subsidy measure, as unnecessary and/or that the injury shall not continue or re-occur if the measure is removed or changed. If, in the course of review the commission determines that the antidumping or countervailing measure is not necessary, it should be removed immediately.

5. Where an exporter, the product of which is subject to a permanent antidumping or countervailing measure, has not been investigated individually in the course of the investigation process, for different reasons, such as the refusal for cooperation, the commission shall, upon a written request addressed to the exporter, require from it to be subject to an accelerated review, in order to determine the individual norm of the antidumping or countervailing measure.

#### Article 44

#### **Repayment of funds (reimbursement)**

1. The importer can request the repayment of values collected by the respective authorities, if the ministry determines that the margin of dumping or the amount of subsidies, on the basis of which this amount has been paid, has been eliminated or reduced to a lower level than the level of the measure in effect.

2. The importer shall, within 60 days after the ending of the period, file with the ministry an application for the repayment of the amount of antidumping or countervailing measures, paid within a period of six months from the date when the commission has determined the amount of permanent measures, which have to be collected or from the date of the final decision on the collection of the amount.

3. The application should contain data on the amount claimed for repayment and the full customs documentation on the calculation of the payment of this amount. The application should contain data on the imposition of the antidumping or countervailing measures for the exporter or producer on whom the measures are applied. If the importer is not related to the producer or exporter and this information is not immediately available, or if the producer or exporter does not want to give it to the importer, the application shall contain the statement of the producer or exporter on the margin of dumping or reduction or elimination of the amount of subsidies. The evidence are provided directly to the ministry in order to be made available to the commission. If the evidence is not submitted within a period of 60 days, the application shall be refused.

4. The commission shall, in the course of investigation and based on the application for repayment of funds, decide on when and to what extent shall the repayment occur. At the same time,

the commission can decide on the initiation of a temporary review, the results of which shall be used to determine the time and amount of repayment. The ministry is obliged to make available to the importer (party making the application) detailed explanations on the taking of the decisions by the commission, on the funds requested to be repaid.

5. The return of the funds of measures shall occur within 12 months and under no circumstances later than 18 months from the date of forwarding the request. Every repayment of funds, relying on precise data of the importer of the product, subject to the antidumping or countervailing measure, shall occur within 90 days from the date of taking the decision on the repayment of funds. The observation of these time periods can be exceeded if the decision is subject to the juridical review proceedings.

#### Article 45

#### **Circumvention**

Antidumping or countervailing measures, imposed pursuant to this law, can be extended to imports from third countries of like products, or parts thereof, when circumvention of the measures in force is taking place.

Circumvention shall, in this case, be defined as a change in the pattern of trade between the country of origin and importing country which as a consequence of practice, process or work, for which there is insufficient due cause or economic justification other than the imposition of the duty, and where there is evidence that the remedial effects of the duty are being undermined in such terms as the prices and/or quantities of the like products and there is evidence of dumping for the like product, and that the imported like product and/or parts thereof still benefit from the subsidy.

#### Article 46

#### **Verification of data**

1. The ministry shall, if it deems it appropriate during the investigation period, undertake the steps on the verification of data from all the parties, on their truthfulness concerning dumping, subsidy and injury, based on which there has been made the decision, as well as/or requires other additional data.

2. If it is necessary, the ministry might carry out investigations even in third countries, within the conditions approved by the respective companies, and after the notification and agreement of the country in question. In this case, the commission prepares the report on the verification of the data. This report shall be made available to the company, while the non-confidential version shall be included in the public file.

3. Parties shall be notified on the data which shall be verified in the course of investigation, however, this does not consist an obstacle for further requirements and details, to the effect of verifying the data made available.

#### Article 47

#### **Failure to cooperate**

1. If one of the interested parties, registered as a legal entity in the Republic of Albania, refuses to make available the required data or it does not make them available within the time periods set out by law, or intentionally detain the investigation, the conclusions shall in this case be drawn based on the available facts. If it is established that one of the interested parties has declared false or misleading data, they shall not be taken into account and the examination shall take place on the basis

of the available facts. The interested parties have to be aware of the consequences of non-cooperation.

2. If the determinations, which, including those on the normal value or amount of countervailing subsidies, have been done in accordance with point 1 of this Article, along with the data of the application form have to be controlled, whether they are applicable and within the investigation time period, comparing them to the data collected from other independent sources, such as the published lists of prices, official statistics of imports, previous data of customs or obtained in the course of investigation from the other interested parties.

#### Article 48 **Confidentiality**

1. The obtained data shall be used only for the reasons for which they have been requested.
2. In the course of investigation, the commission and ministry shall preserve as confidential all the data acquired based on confidentiality. Confidential data shall not be disclosed without the written request of the entity, being the source of the data.
3. The data shall be dealt with confidentially if:
  - a) making them public has unfavourable effects for the persons, making available these data or the person from whom these data have been obtained;
  - b) parties provide grounds that they have obtained them on the basis of confidentiality.
4. The interested parties having ensured confidential data should submit a summary with details on these data, however, not violating the confidentiality.

In specific cases, the parties submit reasons in writing, justifying that certain data can not be contained even in the summary.

5. The data are not confidential if:
  - a) the request for confidentiality is not grounded;
  - b) even if the person making them available does not authorise the detection of the data, in whatever form, they shall be verified through other reliable sources.

#### CHAPTER X JUDICIAL REVIEW

#### Article 49 **Judicial review**

Every interested party, having participated in an investigation, review or repayment procedure, can request, at any time, the review of the final decisions made by the commission, and in case of non-acceptance, it has the right to appellate to the court.

CHAPTER XI  
LAST AND TRANSITORY PROVISIONS

Article 50  
**International obligations**

This law shall be implemented in accordance with the international obligations that the Republic of Albania is subject to as a WTO member, with Articles VI "Antidumping Agreement" and XVI "Agreement on subsidies and countervailing measures" of "General Agreement on Tariffs and Trade" (GATT, 1994).

Article 51  
**Repeals**

Law no 8466, dated 24.03.1999 "On antidumping" as well as the other bylaw acts, issued for its implementation, shall be repealed.

Article 52  
**Entry into force**

This law shall enter into force 15 days following its publication in the Official Journal.

SPEAKER  
**Jozefina Topalli (Çoba)**

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