

**Regulation on Anti-dumping and Anti-subsidy  
of the People's Republic of China**

(Promulgated on March 25, 1997)

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**Chapter 1 General Provisions**

**Article 1**

With a view to maintaining the foreign trade order and fair competition in order to protect the domestic industry, this regulation is formulated in accordance with the Foreign Trade Law of the People's Republic of China.

**Article 2**

Where an imported product is dumped or subsidized and causes or threatens to cause material injury to an established domestic industry concerned, or materially retards the establishment of a particular domestic industry, antidumping or countervailing measures shall be applied in accordance with the provisions of this regulation.

**Chapter 2 Dumping and Injury**

**Article 3**

An imported product is to be considered as being dumped if its export price is less than its normal value.

**Article 4**

the normal value shall be:

1. the comparable price, if there exists the comparable price for like product of the imported product in the exporting country;
2. when there is no comparable price for the like product of imported product in the exporting country, the comparable price of the like product when exported to an appropriate third country or the constructed value determined by adding the cost of production, a reasonable amount of expenses and profits.

**Article 5**

The export price shall be:

1. the price actually paid or payable for the imported product;
2. in cases where there is no export price or the price is unreliable, the price that is first resold to an independent buyer or the price constructed on the reasonable basis as the Ministry of Foreign Trade and Economic Cooperation (MOFTEC) consulting with the Customs General Administration(CGA) so determines.

**Article 6**

The amount by which the export price of imported product lowers than the normal value shall be referred to as the dumping margin.

For the purpose of determining the dumping margin, the just and reasonable comparison shall be made between the export price of the imported product and its normal value.

#### **Article 7**

The term "injury" shall be interpreted as referring to material injury or threat of material injury to the domestic industry or material retardation of the establishment of a domestic industry through the effects of dumped imports.

#### **Article 8**

The following factors shall be considered when determining the existence of material injury:

1. volume of dumped imports, including the total volume of dumped imports or the increasing volume in terms of relative to domestic production and potentiality of significant increases;
2. the price of dumped imports, including the price undercutting or depression for the reason of the dumped imports or the other effects to the price of domestic production of the like product;
3. the consequent impact on the domestic industry by the imported product;
4. the productivity, ability to export and inventories of the dumped nation.

#### **Article 9**

When imports of a product from more than one country are simultaneously subject to anti-dumping investigation, the effects of such imports may be assessed cumulatively.

#### **Article 10**

The term "domestic industry" shall be interpreted as the domestic producers as a whole of the like product, or domestic producers of the like product whose collective output of the product constitutes a major proportion of the total domestic production; otherwise, domestic producers who are related to the exporters or importers or are themselves importers of the subject product, may be excluded.

### **Chapter 3 Anti-dumping Investigations**

#### **Article 11**

Any domestic producer producing the like product of imported product or the relevant association (hereinafter referred to as the "petitioner") may file a written petition for an antidumping investigation to MOFTEC in accordance with this regulation.

#### **Article 12**

The petition shall contain the following information:

1. the name and address of the petitioner and of the domestic producers on whose behalf the petition is lodged;

2. description of the product indicating the name and category of the imported product, code number in the customs tariff schedule as well as the name and category of the domestic like product;
3. volume and prices of the dumped imports and their effects on the domestic industry;
4. causal link between dumping and injury;
5. other factors determined by MOFTEC.

The petition shall enclose the necessary evidences.

**Article 13**

MOFTEC shall conduct an examination upon the information and evidence provided in the petition after receiving the written petition submitted by the petitioner; after consulting with the State Economic and Trade Commission(SETC), MOFTEC will decide whether to initiate the investigation or not.

**Article 14**

Under special circumstances, after consulting with SETC, MOFTEC may commence an investigation on its own initiative when there is sufficient evidence of dumping, injury and causal link between the dumped imports and the injury.

**Article 15**

The period of antidumping investigation shall be 12months from the date of initiation of investigation to publication of the final determination, under special circumstances, the period may be extended to 18 months.

**Article 16**

MOFTEC shall publish the decision of initiation of an antidumping investigation or decision not to initiate the investigation, meanwhile, notify the petitioner, the known exporters and importers, the exporting country and other interested parties.

**Article 17**

After initiating the investigation, MOFTEC shall jointly with CGA conduct the investigation of dumping and dumping margin. SETC shall jointly with relevant authorities under the State Council conduct injury investigation. MOFTEC and SETC shall make preliminary determination respectively. Afterwards, MOFTEC will publish the determination embodying the preliminary determination of dumping and injury.

If the preliminary determination is affirmative, further investigation of dumping and injury shall be continued according to the first paragraph of this article. MOFTEC and SETC will make final determination of dumping and injury respectively. Afterwards, MOFTEC will publish the determination embodying the final determination of dumping and injury.

**Article 18**

Under one of the following circumstances, an antidumping investigation may be terminated, MOFTEC shall publish the determination:

1. the petition has been withdrawn by the petitioner;

2. preliminary determination shows no dumping and injury;
3. final determination shows no dumping or injury;
4. the margin of dumping is de minimis or the volume of imports is negligible.

#### **Article 19**

MOFTEC jointly with CGA, SETC jointly with the relevant authority under the State Council, conducting their respective investigations, may send questionnaires to the interested parties and conduct sampling investigation; and shall, upon request by relevant interested parties, provide the opportunity for them to submit their information and comments.

MOFTEC may dispatch the verification working group to the relevant foreign countries for investigation when it is necessary; unless the relevant countries object to it.

#### **Article 20**

MOFTEC jointly with CGA, SETC jointly with the relevant authority under the States Council, conducting their respective investigations, the interested parties shall provide the relevant information as the case may be. If the interested parties fail to provide necessary information or impede the investigation, MOFTEC and SETC may make their respective determinations on the basis of the facts available.

#### **Article 21**

MOFTEC and SETC shall permit the petitioner and the interested parties to access to the information relevant to the case, unless it is confidential.

### **Chapter 4 Anti-dumping Measures**

#### **Article 22**

Where the preliminary determination has been made of dumping and consequent injury to the domestic industry, the following antidumping measures may be taken:

1. imposing the provisional anti-dumping duty according to the stipulated procedures;
2. providing cash deposit or the other form of bond or guarantee.

The provisional anti-dumping duty, cash deposit or the other form of bond shall be equivalent to the amount of the estimated dumping margin determined by the preliminary determination.

When imposing the provisional anti-dumping duty, the Tariff Commission under the State Council(TCSC) shall make a decision upon a proposal submitted by MOFTEC. When requesting to provide the cash deposit or other form of bond, MOFTEC shall make such a decision.

#### **Article 23**

The determination of taking preliminary antidumping measures shall be published by MOFTEC and implemented by CGA..

#### **Article 24**

The period of provisional anti-dumping duty shall be 4 months from the date of publication of the decision of preliminary antidumping measures; under the special circumstance, it may be extended to 9 months.

**Article 25**

Exporters subject to the investigation or the government of the exporting country concerned may offer an undertaking to adopt effective measures to remove the injury to the domestic industry. MOFTEC may, after consulting with SETC, decide to suspend the investigation and publish a notice.

MOFTEC may require the above-mentioned exporters or the government of the exporting country to provide periodically information relevant to the fulfillment of such an undertaking.

**Article 26**

If the exporters concerned or the government of the exporting country violate(s) the undertaking or withdraw the undertaking, MOFTEC may, after consulting with the SETC, resume the anti-dumping investigation.

**Article 27**

Where the final findings have been made of dumping and consequent injury to the domestic industry, the final antidumping duty may be imposed according to the stipulated procedures. MOFTEC will publish the final determination.

TCSC will make a decision of imposing the anti-dumping duty upon the proposal submitted by MOFTEC. The decision will be fulfilled by CGA.

**Article 28**

Anti-dumping duties shall be borne by the importers.

**Article 29**

Anti-dumping duties shall not exceed the finally established dumping margins in the final determination.

**Article 30**

Where an anti-dumping duty as finally established is less than the provisional anti-dumping duty, the excess amount of duty shall be reimbursed. Where an anti-dumping duty as finally established is higher than the provisional anti-dumping duty, the less proportion of duty shall not be collected.

**Article 31**

Where a final determination is negative, any provisional anti-dumping duty, cash deposit and any other form of bond shall be refunded or released.

**Article 32**

Under the following circumstances, TCSC may decide to impose an antidumping duty retroactively on the imports within the period of 90 days prior to the application of provisional anti-dumping duty upon the proposal submitted by MOFTEC:

1. there has been a history of dumping and injury to the domestic industry, or the exporter was, or should have been aware that the exporter practices dumping and that such dumping would cause injury to the domestic industry;

2. massive importation of dumped imports within a short period of time, and thereby caused injury to the domestic industry.

#### **Article 33**

The period of antidumping measures or undertaking will maintain 5 years with respect to this regulation. During this period of time, MOFTEC may, consulting with SETC conduct a review to the decision of definitive antidumping duty on its own initiative or upon the request of any interested party. MOFTEC shall make a proposal of amending , repealing or maintaining the definitive antidumping duty within the 12 months from the date of initiation of the review to TCSC. TCSC will make a decision to the review and MOFTEC will publish the decision.

#### **Article 34**

When an importer of the dumped product shows that the duty collected exceeds the actual dumping margin, a request for refund of excess duty may be submitted to MOFTEC. MOFTEC will, jointly with the CGA review and examine the request. TCSC will make a decision upon the proposal submitted by MOFTEC. The decision will be fulfilled by CGA.

The decision of refund referred to in the first paragraph shall be made within 18 months from the date of receiving the application for refund.

#### **Article 35**

MOFTEC, SETC and other relevant authorities under the State Council may take appropriate measures to prevent circumvention of antidumping measures.

### **Chapter 5 Special Provisions for Anti-subsidy**

#### **Article 36**

The term "subsidy" shall be interpreted as referring to any financial contribution or benefit provided, directly or indirectly, by a foreign government or public body to any enterprise or industry.

#### **Article 37**

A countervailing duty shall be applied to the subsidized import in accordance with this regulation. However, such duty shall not be applied to the subsidized import only for the purpose of industrial research and development, for disadvantaged regions or environmental protection etc..

#### **Article 38**

The amount of subsidy is the net subsidy received by a subsidized product.

The amount of subsidy shall be determined on a fair and reasonable basis.

#### **Article 39**

The investigation of injury caused by the subsidy, anti-subsidy investigation and the implementation of countervailing measures shall apply the relevant provisions set forth in Chapter 2, Chapter 3 and Chapter 4 of this regulation.

### **Chapter 6 Final Provisions**

#### **Article 40**

In the event that any country or region applies discriminatory antidumping or countervailing measures against the exports from the People's Republic of China, the People's Republic of China may, as the case may be, take counter-measures against the country or region in question.

**Article 41**

MOFTEC, SETC may, jointly with the other relevant authority under the State Council formulate the implementing rules in accordance with this regulation.

**Article 42**

This regulation shall enter into force as of the date of its promulgation.

(The English text is translated by the Department of Treaty & Law, MOFTEC, and is for reference only. The authentic version is the Chinese text.)