

**The Law of Ukraine**

**On Protection of the National Producer against Dumped Imports**

As amended by the Law of Ukraine

11) competent bodies - bodies of state power of a country of origin or exporting country (customs union or

a union (association) where most of its members produce or perform a wholesale trade of similar goods in Ukraine;

a trade union, uniting the employees of enterprises producing or performing a wholesale trade of similar goods in Ukraine;

bodies of executive power of Ukraine within the scope of their authority;

21) traditional trade operations - conditions and business practice which within a substantial term preceding the export of goods, subject to an investigation, were traditional for trade with such goods, or goods having similar conditions of production, sales or marketing;

22) comparable price - price of the similar goods in the exporting country that is practiced in the traditional trade operations;

23) goods - any products for sale ;

24) goods with a short-term product cycle - goods which due to emerging of advanced technologies are recognized outdated, according to the conclusion of the Ministry and Interdepartmental International Trade Commission (hereinafter - the Commission). The procedure of determination of goods with a short-term product cycle is specified in Article 26 of this Law;

25) similar goods - identical goods i.e. alike by all characteristics on goods subject to an investigation, or in case of the absence of such goods, other goods, which though are not alike by all characteristics, have indicative signs, closely resembling those of the goods subject to an investigation;

26) goods subject to an investigation - goods importation of which into Ukraine subject to an anti-dumping investigation and which are identified as such in the corresponding notification on initiation and conducting of the specified investigation;

27) Ukrainian producers - producers of the similar goods or immediately competitive goods, manufactured in Ukraine.

## **Article 2. Sphere of Application of this Law**

1. This Law shall be applied to the import of goods which are a subject of dumping, provided such import causes damage to the national producer of similar goods.

The goods shall be considered a subject of dumping where their export price in Ukraine is lower than a comparable price of similar goods in the exporting country in traditional trade operations.

The anti-dumping investigation in Ukraine shall be performed under the provisions of this Law by the authorized central bodies of executive power – the Ministry, State Customs Service of Ukraine (hereinafter –the Service) and the Commission.

#### **Article 4. Language of Conducting of Anti-Dumping Investigations**

1. According to this Law the anti-dumping investigations shall be performed in the state language of Ukraine.

2. Evidence, written proofs and other information provided to the Ministry, the Service or the Commission according to this Law shall be considered in the process of an anti-dumping investigation under condition they are drawn in the state language of Ukraine.

#### **Article 5. Interdepartmental International Trade Commission**

1. The Interdepartmental International Trade Commission is governed by the Head, who takes the position of the Minister of Economy of Ukraine.

The Head of the Commission, his first deputy, deputies and other members of the Commission shall be appointed according to part two of this Article.

(part one of Article 5 is as amended by the Law of Ukraine N 1595-III of March 23, 2000)

2. Part two of Article 5 is expelled

(according to the Law of Ukraine N 1595-III of March 23, 2000, due to this, parts three - eleven shall be read as parts two-ten respectively)

2. The Cabinet of Ministers of Ukraine shall appoint the staff of the Commission on the proposal of the Head of the Commission.

3. The work of the Commission shall have the form of sittings.

Sittings of the Commission shall be held at the Ministry's location.

Sittings of the Commission shall be held on demand of the Head of the Commission, on the grounds of a founded demand of a member of the Commission, submitted to the Head of the Commission or in other cases with observation of terms, envisaged by this Law.

4. The Sittings shall be called by the Head of the Commission.

5. The sitting of the Commission shall be considered authorized if not less than half of the total number of members of the Commission is present.

The Commission shall, within the scope of its authorities, take decisions, arrange and supervise their implementation. Only members of the Commission may vote for adoption of a corresponding decision.

Acts of the Commission, particularly those, concerning the performance of an anti-dumping investigation and application of anti-dumping measures, shall be obligatory for execution.

6. The following decisions may be taken at the sittings of the Commission:

- 1) on initiation of an anti-dumping investigation;
- 2) on positive and negative conclusions as to the presence of dumping and methods, enabling to determine the margin of dumping;
- 3) on positive or negative conclusion as to the presence of damage and its size ;
- 4) on determination of a cause-and-effect relation between the dumped imports and the damage;
- 5) on application of anti-dumping measures;
- 6) on other matters within the authorities, envisaged by this Law.

7. Decisions of the Commission shall be taken by a simple majority of vote and in particular cases, envisaged by this Law, by two-thirds (qualified majority) of its members' votes.

8. Decision of the Commission, taken by a simple majority of vote, shall be deemed taken, provided the majority of members of the Commission have voted for it. In case of equal division of votes the vote of the Head of the Commission is casting.

9. Decision of the Commission taken by a qualified majority of votes shall be deemed taken, provided two-thirds of members of the Commission have voted for it

10. In case of necessity, decisions of the Commission as to issues, specified in clause 6 of part six of this Article, may be taken under the regular procedure by means of visaing of the draft of the corresponding decision by members of the Commission. In this case the Head of the Commission shall inform the members of the Commission thereof and propose to them to express their opinion as to this matter in terms within which this opinion can be considered and which do not exceed the terms, established by this Law.

(part ten of Article 5 is as amended  
by the Law of Ukraine N 1595-III of March 23, 2000)

#### **Article 6. Terms**

1. Terms of fulfillment of all the activities according to this Law, shall be established by this Law or determined by the Commission or the Ministry. Right to fulfillment of any activities shall be lost upon

2. The terms established by this Law, or determined by the Ministry or the Commission shall be measured in years, months and days.

3. The terms may as well be determined by a reference to the event, which is inevitable to happen..

4. The term measured in years shall terminate on the respective month and date of the last year of this term.

The term measured in months shall terminate on the respective date of the last month of this year. If the ending of the term falls on the month with no respective date, such term shall expire on the last day of that month.

4. In order to determine a normal value, the sales volume of the similar goods, destined for the consumption





3. In cases stipulated in part two of this Article, in order to establish a grounded export price of goods

consumption in the exporting country and which shall be refunded in case of exportation of these goods into Ukraine.

3) rebates and volumes of sales.

The normal value and the export price shall be correspondingly adjusted by the amounts of differences in direct costs, directly connected with providing surety, technical assistance (consultations) and services, envisaged by the legislation of an exporting country (country of origin or comparison) and (or) purchase and sale contract;

9) commission fee.

The normal value and the export price shall be correspondingly adjusted by the amounts of differences in commission fees paid in the process of sales of goods, subject to consideration;

10) currency conversion costs.

2) it is impossible to determine the actual value of a margin of dumping by methods, stipulated in parts six and seven and clause one of this part.

9. When establishing a margin of dumping according to this Article, the methods of sampling, may be used according to Article 30 of this Law.

#### **Article 10. Procedure of Settlement and Determination of Damage**

1. In the process of investigation the presence and the size of damage, caused to the national producer in one of the following forms, shall be established, unless otherwise stipulated by this Law:

- 1) considerable damage, caused to the national producer;
- 2) threat of infliction of considerable damage to the national producer;
- 3) substantial impediment to the national producer in launching or expansion the production of similar goods subject to consideration.

2. Establishment of the presence of damage shall be based on evidence and involve an objective investigation of the following factors:

- 1) volumes of the dumped imports and effect thereof upon the prices of similar products in the market of Ukraine;
- 2) the consequent impact of these imports on the national producer, which is a logical result of effect of the factors, specified in clause 1 of this Article.
3. While determining the volumes of dumped imports it shall be established, whether there was a significant growth of absolute indicators of volumes of dumped imports with respect to the production or consumption of the relevant goods in Ukraine.

The following shall be established while determining the effect of dumped imports upon the price of similar goods in the market of Ukraine:

- 1) whether a substantial reduction in price of dumped imports as compared with the price of similar goods, manufactured by a national producer, took place;
- 2) or whether the effect of such imports by any alternative means causes a considerable decrease of prices, or substantially impedes a possible increases of prices for similar goods, manufactured by the national producer, which otherwise would have occurred.

The Ministry shall consider all the factors, stipulated in this part, while taking a corresponding decision on the issue, specified in clause 1 of part two of this Article.

4. Where the imported goods from one or several countries simultaneously become a subject of anti-dumping investigations, the effect of such imports shall be collectively evaluated under the following conditions:

- 1) the margin of dumping established in connection with the imports from each country exceeds the minimum level, defined in part four of Article 16 of this Law;



3) introduction of trade restrictions and competition between the Ukrainian and foreign producers;

4) development of technologies;

5) the results of export activity and efficiency of productivity of the national producer.

8. The effect of the dumped imports shall be evaluated regarding the production of similar goods by the national producer when the existing evidence enable to compare this production on the basis of such criteria as production process, sales and producer's profits. If such comparison of this production is not practicable, the effects of the dumped imports shall be evaluated through examination of the production of a group or range of the most related goods which include similar goods, of which the necessary information can be provided.

9. A determination of a threat of material damage shall be based on facts. The circumstances, which shall bring to a situation in which the dumping would cause damage, should be clearly forecasted and inevitable.

10. The following factors shall be taken into account while determination of a threat of substantial damage:

1) a significant rate of growth of dumped imports into Ukraine which is an evidence of considerable growth of import volumes;

2) sufficient export potential at the exporter's disposal or its inevitable and considerable growth, which is an evidence of a probable considerable growth of volumes of dumped exports in the Ukrainian market with consideration of other export markets to which additional exports may be supplied;

3) supply of imports into Ukraine which may have a considerable effect, resulting in price-cutting or substantially prevent an increase in prices and cause a probable growth in demand for the new imports;

4) inventories of goods of foreign origin, subject to an investigation.

11. The Ministry shall take into account all the factors, specified in part ten of this Article in aggregate, while taking decision on inevitability of dumped exports into Ukraine from exporting countries and substantial damage, caused by these exports, unless any preventive measures are taken.

producers from other areas of Ukraine do not fully meet the demand for goods, subject to consideration, within each of such markets. Under such circumstances, the presence of damage, shall be proved even if

1) the applicant and composition of the applicant, proof of the relevant capability of such persons, the volumes and value of production of similar goods by the applicant in Ukraine. Where the application is submitted on behalf of the national producer, this application shall specify:

information on the national producer on behalf of which this complaint has been submitted, as well as on the volumes and value of similar goods produced by him in Ukraine;

list of all known national producers of similar goods (or associations of national producers of similar



applicant on providing additional copies of a non-confidential version of the complaint within the established terms, for the purpose of their transference according to part thirteen of this Article.





9. Any information, provided by the interested parties, on the basis of which a positive or negative conclusion as to the presence of dumping and the damage shall be made, is subjected to the Ministry's verification with the exception of circumstances, stipulated in Article 31 of this Law.

Information and evidence, supplied to the Ministry by one of the interested parties during an anti-dumping investigation, shall be forwarded by this interested party to all other interested parties. In case this information and evidence are not forwarded to the Ministry or to the interested parties or if they cannot be verified, such information and evidence shall not be taken into consideration by the Ministry in the process of an anti-dumping investigation.

10. The term of performing an anti-dumping investigation shall not exceed one year since the date of making decision on its initiation.

The Commission, by a relevant decision, may prolong the term of an investigation, however this term shall not exceed 15 months.

#### **Chapter IV ANTI-DUMPING MEASURES**

##### **Article 14. Provisional Anti-Dumping Measures**

1. Provisional anti-dumping measures may be taken under the following conditions:

- 1) initiation of an anti-dumping procedure in accordance with the procedure, established by Article 12 of this Law;
- 2) initiation of an anti-dumping investigation in accordance with the procedure, established by Article 13 of this Law;
- 3) publication of notification on initiation of an anti-dumping investigation in the newspaper;
- 4) the interested parties have been provided with a corresponding opportunity to submit information and comments according to part twelve of Article 12 of this Law;
- 5) in the course of an anti-dumping investigation the Ministry has made a preliminary positive conclusion on the presence of dumping and damage, that is a consequence of such dumping;
- 6) the national interests require application of the provisional anti-dumping measures in order to prevent the threat of damage;

2. The provisional anti-dumping measures shall be applied upon the Commission's decision not earlier than after 60 days and not later than nine months from the date of initiation of the corresponding anti-dumping investigation.

3. In case the exporters, importers and producers of goods, subject to an anti-dumping investigation, refuse the Ministry's verification of information according to articles 7-9, parts five and nine of Article 13 and Article 29 of this Law, not later than within 75 days from the date of initiation of the corresponding anti-dumping investigation it shall be determined, whether the provided information is sufficiently grounded for the preliminary conclusion as to the presence of dumping and the damage.

Not later than 10 days prior to the possible date of application of the provisional anti-dumping measures, the Ministry may inform the interested parties of its grounds that in the opinion of the Ministry necessitate submission of the proposal on application of the said measures to be considered by the Commission. The

interested parties may forward to the Ministry their comments on this matter. The Ministry shall consider the commentaries of the interested parties, provided they were submitted to the Ministry not later than 5 days prior to the date of taking decision by the Commission on application of the provisional anti-dumping (t)6.4(ies, prc.003 Twsu)0( )6.1s.tnoco

3) on initiative of the Ministry in case of identification of a new evidence of the presence of dumping and the damage.

8. The provisional anti-dumping measures may be applied through an introduction of collecting a preliminary anti-dumping duty. The rate of the anti-dumping duty shall be established by a corresponding resolution of the Commission.

The rate of the provisional anti-dumping duty shall be established:

in percentage of the customs value of goods subject to an anti-dumping investigation. The customs duty of these goods shall be calculated in accordance with the basic terms of delivery CIF- Ukrainian border; or

as a difference between the minimum value and customs value of the specified goods, calculated in accordance with the basic terms of delivery CIF- the border of Ukraine;

Minimum price is a selling price of the specified goods that shall not cause damage to the national producer. The minimum value shall be calculated by the Ministry according to part nine of this Article.

9. The procedure of calculation of minimum price is as follows:

1) The Ministry shall calculate the price of goods, subject to an anti-dumping investigation, which was practiced in the market of Ukraine within the basic period. The Ministry shall calculate the weighted average value for the basic period on the grounds of weekly or monthly 2.1(m(r)-6.2(ic)6.1culat)e5( )TJM(i).1(stry)-5.5( in)6. be(

9) the minimum price established according to this part shall be valid during the whole period of application of the provisional anti-dumping measures;

10) where the minimum price is calculated for a five year period, the Ministry shall use the method of calculation of the minimum price, stipulated in clauses 1-9 of this part, with the adjustment of the required data for a five year period of application of the provisional anti-dumping measures.

10. The provisional anti-dumping duty shall be paid in a cash or non-cash form or through remitting a duty amount to a deposit account, or through a relevant debt commitment, unless otherwise is stipulated by Ukrainian legislation.

11. The rate of a provisional anti-dumping duty shall not exceed the preliminarily calculated amount of a margin of dumping and shall be lower than the amount of such margin on condition the duty rate is sufficient to prevent the damage.





Not later than 15 days prior to expiration of the term of application of the provisional anti-dumping measures, an interested exporter may be notified of the grounds that in the opinion of the Ministry necessitate submission of proposal on rejection of the offered obligations to be considered by the Commission. Such exporter may submit to the Ministry his comments on this matter, which shall be considered by the Ministry, if provided to the Ministry not later than 10 days prior to expiration of the term of application of the provisional anti-dumping measures.

The final decision of the Commission shall provide for the reasons of non-acceptance of the exporter's comments to be taken into account.

4. The exporters, proposing obligations to discontinue the dumped imports, shall submit to the Ministry a non-confidential version of such obligation, which may be transferred by the Ministry to other interested parties.

5. Where after consultations between the Ministry and the interested parties the exporters assume obligations to terminate the dumped imports, the Ministry shall approve the preliminary conclusions as to termination of an anti-dumping investigation and submit to the Commission a report on the results of such consultations with the proposal to the Commission to take a decision on termination of an anti-dumping investigation.

The decision of the Commission on acceptance of the exporters' obligations to terminate dumped imports and the decision on termination of the anti-dumping investigation shall be taken by a qualified majority of vote within one month from the date of making conclusions of the Ministry on termination of the anti-dumping investigation. The anti-dumping investigation shall be deemed terminated, where the Commission did not approve any other decision within one month from the date of submission of the said report by the Ministry.

In case the Ministry does not make a decision on termination of the anti-dumping investigation, the Ministry shall immediately forward to the Commission a detailed report on the results of the conducted consultations with a proposal to apply the anti-dumping measures.



The Commission shall terminate an anti-dumping investigation upon representation of the Ministry without application of the anti-dumping measures, where in the process of such investigation it has been established



4. The definitive anti-dumping duty may be collected from goods, declared for shipment to the customer, within 90 days before the date of application of the provisional anti-dumping measures, but not earlier than 60 days before the date of initiation of an anti-dumping investigation , under the following circumstances:

1) importation of the aforementioned goods into Ukraine has been carried out under the contracts, registered according to part four of Article 28 of this Law;

2) the Ministry provided the importers with an opportunity to submit their comments;

3) the Ministry has established that:

the specified goods have been a subject of dumping for a long period of time in the past or an importer was

4. Reconsideration of the anti-dumping measures shall be performed within undertime, and generally not later than twelve months from the date of initiation of such reconsideration.

5. The Ministry shall fulfill the reconsideration of the anti-dumping measures according to the relevant decisions of the Commission.

6. Where in the process of reconsideration of the anti-dumping measures the Ministry makes a positive or negative conclusion as to the presence of dumping and (or) damage, the Ministry shall prepare a report with the relevant proposals and submit it to the Commission. On the grounds of this report the Commission may make one of the following decisions:

1) cancel or continue the anti-dumping measures according to Article 19 of this Law;

2) cancel, continue or change the anti-dumping measures according to articles 20 and 21 of this Law.

7. If the decision to cancel the anti-dumping measures is made only with respect to individual exporters, and not the aggregate number of countries, such exporters shall remain the subjects of the said anti-dumping procedure and may be subject to a new anti-dumping investigation in case of initiation of the next reconsideration of anti-dumping measures in accordance with the provisions of this chapter.

8. If according to Article 20 of this Law a reconsideration of the anti-dumping measures is carried out at the end of the term of application of anti-dumping measures, specified in Article 19 of this Law, such anti-dumping measures shall be reconsidered as well, according to Article 19 of this Law.

#### **Article 19. Reconsideration of Anti-Dumping Measures Due to Expiry of their Application**

1. Within the first half of the last year of application of the anti-dumping measures the Ministry shall publish a notice in the newspaper on the date of expiry of application of such measures.

2. Reconsideration of the anti-dumping measures due to expiry of their application shall be initiated on demand of the national producer or that of a body of executive power of Ukraine. The anti-dumping measures shall be valid until the Commission makes a corresponding decision under the results of this reconsideration.

3. Not later than three months prior to ending of the five-year term of application of anti-dumping measures the national producer or bodies of executive power of Ukraine may submit to the Ministry a demand on reconsideration of the anti-dumping measures due to expiry of their application.

4. Reconsideration of the anti-dumping measures due to expiry of their application shall be initiated, in case the relevant demand contains sufficient evidence that discontinuance of antidumping measures is likely to cause continuation of the practice or resumption of damage. This probability may be confirmed by:

1) an evidence of continuation of dumping effect and the damage; or

2) an evidence of complete or partial liquidation (prevention) of a damage due to application of the anti-dumping measures; or

3) evidence, confirming that the status of the exporters or economic conditions are deemed those, under which the probability of emerging of new types of dumping, causing damage, may not be excluded.



2) the exporters or producers, determined in clause 1 of this part, performed exportation of goods into Ukraine within the period of investigation, or where the specified exporters and producers prove that they





3. The application on refund of the paid amounts of anti-dumping duty shall be considered properly substantiated, under condition it provides for accurate information on the paid amounts of an anti-dumping duty and is accompanied by all the customs documents on settlements and payments of the specified amounts. The application should also contain substantiation of the normal value and export prices in Ukraine for the exporters or producers, which have paid the anti-dumping duty within the term, established in part two of this Article.

In case the importer is not related to the exporter or producer of the said goods and where it is impossible immediately to use the available information, specified in parts two and three of this Article, or the exporter or producer refuses to provide the importer with such information, the stipulated application shall contain substantiation of the exporter or producer, proving that the value of the margin of dumping has been decreased or removed according to this chapter, as well as respective evidence, confirming this substantiation.

The Ministry shall reject the abovementioned application, unless the exporter or the producer submits this evidence within 30 days from the date of the Ministry' reception of the application.

4. The Commission on proposal of the Ministry shall consider the specified application together with the conclusions of the Service and the Ministry of Finance of Ukraine and make a decision as to its expediency and the extent of its satisfaction. The Commission shall make a relevant decision by the results of such consideration. The Commission may take a decision on initiation of an intermediate reconsideration of the anti-dumping measures. The Commission shall use the information and conclusions arising from such reconsideration and which are established in compliance with the rules, used during such reconsideration, for the purpose of determination of substantiation and the size of refunding of paid amounts of the anti-dumping duty.

5. The Commission shall generally take a decision on refunding of amounts, paid in excess of the actual fixed rate of the margin of dumping within twelve months, but not later than eighteen months from the date of submission by an importer of the products, subject to application of the anti-dumping measures, the application on refunding of paid amounts of the anti-dumping duty. The Ministry of Finance of Ukraine shall refund the stipulated amounts within 90 days from the date of making a relevant decision of the Commission.

If the interested importer has not completed the composing of documents on refunding of paid amounts of the anti-dumping duty within the terms, specified in this part, these amounts shall not be refunded.

#### **Article 25. Final Provisions on Reconsideration of Anti-Dumping Measures, Resumption of Anti-Dumping Investigation or Refunding of Paid Amounts of the Anti-Dumping Duty**

1. While reconsidering the anti-dumping measures, resumed investigations or refund of the paid amounts of anti-dumping duty in accordance with this chapter, the Ministry, in case the circumstances have not changed, shall act according to the rules of conducting an anti-dumping investigation, under the results of which, collection of an anti-dumping duty has been introduced, taking into account the requirements of articles 7-9 and 30 of this Law.

2. In the process of an anti-dumping investigation, in accordance with this chapter, the Ministry shall examine the authenticity of export prices according to articles 7-9 of this Law.

In case the decision on the development of the export price has been made according to Article 8 of this Law, the Ministry shall calculate the export price without taking into account the paid amounts of the anti-dumping duty, under condition the Ministry has been provided with substantiated evidence, proving that the rate of an anti-dumping duty properly affects the reselling prices of products and prices of the next sale of such products in Ukraine.

3. The provisions of this chapter shall create no impediments to the customs legalization of goods, subject



of an application by a national producer on establishment of the category of products and attributing the goods to the category, which involves goods, with respect to the imports of which two or more positive conclusions as to the presence of dumping have been made within the process of an anti-dumping investigation, during which a decision on acceptance of the exporter's obligation to discontinue dumped imports has been made according to Article 15 of this Law.

8. Goods with a short-term product cycle shall be subject to a positive conclusion as to the presence of dumping, on condition the Commission:

- 1) establishes a value, by which the normal cost of such products exceeds its export price in Ukraine;
- 2) determines in the positive conclusion on the presence of dumping, or in the decision on introduction of collection of an anti-dumping duty, made due to the results of the positive conclusion on the presence of dumping of individual producer (exporting country) with respect to imports of which the value, specified in clause 1 of this part, has been approved.

### **Article 27. Avoidance of Payment of Anti-Dumping Duty**

1. The anti-dumping duty, collected according to this Law, may be extended to the imports of similar goods or a part of such goods in case avoidance of payment of anti-dumping duty takes place.

Any changes in the structure of trade between Ukraine and other countries, emerging in the process of transactions and (or) activities of foreign producers, exporters and (or) importers, etc., shall be treated as avoidance of payment of anti-dumping duty. Such changes shall be deemed insufficiently substantiated or economically ungrounded, except cases of application of an anti-dumping duty, proving that:

introduction of an anti-dumping duty shall be neutralized by prices and (or) volumes of similar products;

the dumping exists because of the normal value which has been previously calculated for similar products.

2. The assembly of certain products in Ukraine or in a third country shall be considered avoidance of payment of the anti-dumping duty, where:

1) such transaction has been initiated or is carried out immediately before or after initiation of an anti-dumping investigation and the components of such products are supplied from the country with respect to imports of which the anti-dumping measures are applied;

2) the value of component parts of such product is not less than 60 per cent of the total value of the finished product. In this respect there shall be no fact of avoidance of payment of anti-dumping duty, if the added value of components that have been assembled in the course of the aforementioned transactions and (or) completion of production exceeds 25 per cent of the production costs.

3) application of an anti-dumping duty is neutralized by prices and (or) volumes of the assembled goods or similar goods and there are sufficient evidence of the presence of dumping because of the normal value,

avoidance of payment of anti-dumping duty. In the aforementioned decision the Commission shall authorize the Ministry to establish:

1) a compulsory registration of the contracts on imports to Ukraine according to part four or Article 28 of this Law; or

2) depositing of a relevant amount at the account by a supplier. Funds to the deposit account may be remitted at the place of location of customs bodies, performing the customs legalization of goods, subject to the specified anti-dumping investigation. The Service shall establish the procedure of funds remitting to a deposit account.

For the purpose of investigation of the facts of avoidance of payment of anti-dumping duty, the corresponding provisions on initiation and performance of anti-dumping investigations, envisaged by this Law, shall be applied, except those provisions, concerning the terms. The abovementioned investigation shall be fulfilled by the Ministry with the assistance of the Service within the term, not exceeding nine months.

5. In case the Ministry establishes the facts of avoidance of payment of anti-dumping duty, the Commission, upon proposal of the Ministry, may take a decision by a simple majority of vote as to application of anti-dumping measures. Such measures shall be applied after the Commission takes a relevant decision according to part four of this Article.

6. Where imports of products into Ukraine are performed under a license of the Ministry, certifying that such product imports do not cause an avoidance of payment of an anti-dumping duty, no anti-dumping measures shall be applied to such imports and the contracts, under which the stipulated imports have been fulfilled, shall be exempted from compulsory registration in accordance with part four of Article 28 of this Law.

7. The provisions of this Article shall not create impediments to execution of the customs legalization of goods, subject to an anti-dumping investigation.

#### **Article 28. General Provisions on Collection of Anti-Dumping Duty**

1. A provisional or definitive anti-dumping duty shall be collected at the rate and under the terms, established by a relevant decision of the Commission on application of anti-dumping measures. The specified duty shall be paid irrespective of the payment of other taxes and fees (compulsory payments), including duty, customs fee and others, generally paid while importing certain goods into the customs territory of Ukraine. The countervailing duty and the anti-dumping duty shall not be simultaneously imposed as to goods, imported by the same supplier.

2. The Ministry shall publish in the newspaper the announcement on a corresponding decision, introducing collection of a provisional or definitive anti-dumping duty, on acceptance of an exporter's obligations to terminate the dumped imports, or on termination of the anti-dumping procedure or an anti-dumping

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5. In case importation of goods, with respect to which the anti-dumping measures are applied, are imported into Ukraine for the purposes of the Ministry of Defense of Ukraine, such products shall be exempted from an anti-dumping duty, under condition the Commission has taken a corresponding decision thereon and where importation of such goods into Ukraine is fulfilled in accordance with the contracts, registered according to part four of this Article.

6. The Service shall quarterly inform the Ministry and the Commission of the volumes of imports subject to an anti-dumping investigation or with respect to which the anti-dumping measures are applied, as well as on the amounts of an anti-dumping duty, collected according to the relevant decision of the Commission.

#### **Article 29. Verification of Information Outside Ukraine**

1. If necessary, the Ministry may carry out verification of information outside the territory of Ukraine with the purpose of:

1) familiarization with book-keeping documentation of the importers, exporters, producers and their unions (associations), trade organizations, natural person, etc.;

2) examination of authenticity of information as to the presence of dumping and the damage, submitted in the process of an anti-dumping investigation..

2. In the event of necessity the Ministry may initiate verification or the relevant investigations in other countries under condition of:

1) consent of the corresponding interested parties;

2) notification of the corresponding competent bodies by the Ministry;

3) the absence of objections on the part of the preliminary informed stipulated competent authorities.

Upon receipt of the consent of an interested party the Ministry shall notify the competent bodies of the names and addresses of enterprises, to be inspected, as well as on the dates of performing these verifications, proposed by the Ministry.

In case the interested party gives no consent, within the term, proposed by the Ministry, the verification of the said information may be unfulfilled. In this case the corresponding provisions of Article 31 shall be applied.

3. The interested parties shall be notified of the list of information, subject to verification, and other information, which should be provided by these parties in the process of verifications. The Ministry may demand providing of more detailed information, if such a necessity arises in the course of verification.

4. While conducting the verification of information, the Ministry may apply for the assistance of the members of the Commission.

#### **Article 30. Selective Methods of Anti-Dumping Investigation**

1. Where the number of applicants, exporters or importers (hereinafter - parties), types of products or corresponding operations is considerable, the Ministry may confine oneself with:

1) reasonable number of parties, types of products or operations, using a sampling which is statistically grounded on the basis of information, which is available with the Ministry at the moment; or



2) the greater volumes of production, sales or product exports that, in case of necessity, may be investigated within the terms, specified in this Law or established by the Commission.

2. The Ministry shall perform an ultimate selection of parties, types of products or operations subjected to

3) such information is suitable for verification.

4) the interested party, providing the information, act in good faith and to the best of its abilities.

4. In case the Ministry does not take into account the provided evidence or information, the interested party, who has submitted this evidence and information shall be immediately notified of the reasons of t rejection of the said information and shall be provided with an opportunity to supply additional comments within the terms, established by the Ministry. Where such comments are considered insufficient, the



5. All comments of the interested parties, supplied after the ultimate information has been provided, shall be taken into account on condition, they were received by the Ministry within the terms, established by the Ministry for each individual case but which shall not exceed ten days.

6. The information, documents and comments, supplied to the Ministry by one of the interested parties in the process of the investigation that is carried out in accordance with this Law, shall be supplied to all other interested parties as well. In case the party, submitting such information, documents and comments to the Ministry, fails to forward the specified information, documents and comments to other interested parties, such information, documents and comments shall not be considered in the process of an investigation.

**Article 34. Notification of the Competent Bodies of an Interested Country**

be made, upon a written application of an interested party, which states that an mistake of the executors took place.

3. The interested parties may demand the hearings of the Ministry to be conducted. Such demands shall be satisfied where they have been provided to the Ministry in writing within the terms, specified in the notice on the initiation of the anti-dumping investigation, or if they provide for the special reasons for arranging

4. The laws and other normative and legal acts of Ukraine shall be applicable in the part, which is not in conflict with the provisions of this Law.

**President of Ukraine**

**L.Kuchma**

**Kyiv  
December 22, 1998  
N 330-XIV**