

ORDINANCE AGAINST DUMPING OF IMPORTED GOODS INTO VIETNAM

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

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

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

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

CHAPTER I

General Provisions

Article 1 *Governing scope*

This Ordinance regulates anti-dumping measures; procedures and contents of an investigation in order to apply such measures, and the applicability of such measures to goods which are dumped [and] imported into Vietnam.

Article 2 *Interpretation of terms*

In this Ordinance, the following terms shall be construed as follows:

1. *Anti-dumping duty* means an additional import duty applicable to goods

le between the normal market price of goods imported into Vietnam and the cost of exporting such goods to Vietnam.

3. *Insignificant dumping margin* means a dumping margin not exceeding 2% of the cost of exporting goods to Vietnam.

4. *Insignificant volume, quantity or value of imported goods dumped and imported into Vietnam* means when the volume, quantity or value of goods dumped and imported into in Vietnam satisfies the following conditions:

- (a) The volume, quantity or value of goods dumped from any one country does not exceed 3% of the total volume, quantity or value of similar goods imported into Vietnam;

- (b) The total volume, quantity or value of goods dumped from a number of countries satisfying the condition stipulated in sub-clause (a) of this clause does not exceed 7% of the total volume, quantity or value of similar goods imported into Vietnam.

5. *A domestic manufacturing industry estic m*

measures, [provided] to the State agency of Vietnam competen

CHAPTER II

Investigations In Order To Apply Anti-Dumping Measures

Article 8 *Grounds for holding an investigation*

1. An investigation in order to apply anti-dumping measures shall be held when there is a file requesting the application of anti-dumping measures from an organization or individual representing a domestic manufacturing industry.

An organization or individual lodging a file requesting the application of anti-dumping measures shall be deemed the representative of a domestic manufacturing industry when it satisfies both the following conditions:

- (a) The volume, quantity or value of goods they manufacture or represent accounts for at least twenty five (25) per cent of the total volume, quantity or value of similar goods of the domestic manufacturing industry; [and]
 - (b) The volume, quantity or value of goods stipulated in sub-clause (a) of this clause and of domestic manufacturers supporting the submission of the file requesting the application of anti-dumping measures is greater than the volume, quantity or value of similar goods of domestic manufacturers opposing the request for application of anti-dumping measures.
2. The Minister of Trade may issue a decision to hold an investigation when there is clear evidence that the dumping of goods is causing, or threatening to cause, significant loss to a domestic manufacturing industry.

Article 9 *File requesting the application of anti-dumping measures*

A file requesting the application of anti-dumping measures shall be b8275.02 0 0 10.02 94 Tm(of T

- (g) Information, data and proof of the significant loss to a domestic manufacturing industry which the goods dumped into Vietnam causes or threatens to cause;
 - (h) Name, address and other necessary information about the organization or individual manufacturing and exporting into Vietnam the goods subject to the request for application of anti-dumping measures;
 - (i) Specific request for application of anti-dumping measures, with duration and level of applicability.
2. Other data and information considered necessary by the organization or individual requesting the application 1.93no08.8025 634.28010.02 0 0 10.91t8j10.02 0 0 10.08020.02 0 0 10.91t8l2 0 0

4. Domestic organizations and individuals manufacturing similar goods.
5. The domestic industry association representing the majority of organizations and individuals manufacturing [and/or] importing similar goods.
6. The foreign industry association representing the majority of organizations and individuals manufacturing [and/or] exporting the goods subject to the request to apply anti-dumping measures.
7. The labour union organization or other organizations representing the interests of employees in the domestic manufacturing industry.
8. The consumer protection organization.
9. The competent State agency of Vietnam.
10. The competent agency of the country or territory exporting the goods subject to the request to apply anti-dumping measures.
11. Other organizations and

Article 14 *Consultation*

1. The investigating agency shall organize consultation with the parties concerned in an investigation process as stipulated in article 11 of this Ordinance, in order to facilitate such parties to express their opinions and to provide essential information.
2. It shall not be mandatory for parties concerned in an investigation process to be present during a consultation session; if any party is not present during a consultation session, the interests of such party regarding the application of anti-dumping measures shall still be protected.
3. Holding a consultation session must not hinder the process of investigation and application of anti-dumping measures in accordance with the provisions of this Ordinance.

Article 15 *Retaining confidentiality of information*

1. The investigating agency shall be responsible to maintain confidentiality of information provided to

Article 19 *Termination of an investigation*

The Minister of Trade shall issue a decision on termination of an investigation in the following circumstances:

1. If the organization or individual who lodged the file requesting application of anti-dumping measures voluntarily withdraws such file.
2. If the preliminary conclusion prescribed in article 17 of this Ordinance contains at least one of the following items:

3. The investigating agency shall publicly announce the contents of the undertaking for the information of the parties concerned in the investigation process.
4. If the Minister of Trade does not agree to an undertaking from parties concerned, the Minister must notify its reasons therefor and permit the continuation of the investigation in order to apply anti-dumping measures.
5. The Minister of Trade shall issue a decision on suspension of the anti-dumping investigation and on application of the measure being an undertaking if it is considered that implementation of such undertaking will not cause, or threaten to cause, significant loss to a domestic manufacturing indus(k)Tj10.02 0 32r22163 645.7402 Tmin

3. On application of an anti-dumping duty rate in a final conclusion which is higher than the interim anti-dumping duty rate applied pursuant to article 20 of this Ordinance, the difference between

CHAPTER V

Complaints and Dealing with Breaches

Article 26 *Complaints and legal proceedings*

1. Any party concerned in an investigation process or concerned with the application of anti-dumping duty who disagrees with a decision of the Minister of Trade shall have the right to lodge a complaint with the Minister of Trade within a time-limit of sixty (60) days from the date of issuance of the decision by the Minister applying anti-dumping duty.
2. The Minister of Trade shall be responsible to resolve a complaint within a time-limit of sixty (60) days from the date of its receipt; in special circumstances this time-limit may be extended, but not beyond sixty (60) days and it must be notified by an appropriate mode to the complainant organization or individual.
3. If at the expiry of the time-limit prescribed in clause 2 of this article the Minister of Trade has not issued a decision resolving a complaint or if the complainant organization or individual disagrees with the decision of the Minister of Trade resolving the complaint, then the complainant shall have the right to institute court proceedings in accordance with the law of Vietnam.

Article 27 *Dispute resolution and dealing with breaches*

Dispute resolution and dealing with breaches of the laws on anti-dumping of goods into Vietnam shall be implemented in accordance with the laws of Vietnam; and where an international treaty which Vietnam has signed or acceded to