

**NOTIFICATION OF LAWS AND REGULATIONS
UNDER ARTICLE 18.5 OF THE AGREEMENT**

KYRGYZ REPUBLIC

The following communication, dated 12 August 1999, has been received from the Permanent Mission of the Kyrgyz Republic.

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The present Law shall determine the basic notions and principles of the legislation of the Kyrgyz Republic on anti-dumping, the procedure of investigation in order to ascertain dumping and injury as well as the conditions of imposition and abolition of anti-dumping measures.

CHAPTER 1. GENERAL PROVISIONS

Article 1 Terms and definitions

The following notions are used in the present Law:

"Anti-Dumping investigation" - investigation in respect of a supplier of a good being sold at a price less than its normal value, if such a sale causes or threatens to cause injury to domestic producers of the like product.

"Anti-Dumping measures" - special measures, applied by the Authorized Body in a form of provisional anti-dumping measures and anti-dumping duties for elimination of injury alleged by sale of a foreign good at a price less than its normal value.

“Anti-Dumping duties” - duties applied in case of import supplies to the customs territory of the Kyrgyz Republic at a price significantly less than their comparable price in the country of export and/or production at the moment of this exportation, if such import supplies cause or may cause injury to the domestic producers of like goods.

“Related persons/parties” - producers or buyers (participants of the transaction) who are related to the suppliers or are themselves suppliers of the allegedly dumped product. The participants of the transaction are related which are bound if:

- one of the persons is Director or a member of the Management Board or controlling body of the other person;
- Director or a member of the Management Board or controlling body of one person is at the same time Director or a member of the Management Board or controlling body of the other person;
- they are companions;
- one of the persons is the employer of the other person;
- one of the persons owns or possesses directly or indirectly the voting right or share in the authorized capital, which is not less than 5 per cent of all votes or 5 per cent of the authorized capital of the other person;
- both persons are controlled directly or indirectly by a third person;
- two persons control, directly or indirectly, the third person;
- they are relatives.

“Injury” shall mean material losses caused to domestic producers as a result of supplying the product at dumped prices;

“Provisional anti-dumping measures” shall mean preliminary anti-dumping measures, applied by the Authorized Body in respect of the supplier of a dumped product in the form of provisional duties, pledged liability or cash deposit after the initiation of the anti-dumping investigation.

“Dumping (import of a dumped good)” shall mean unfair actions of a supplier when a product is imported to the customs territory of the Kyrgyz Republic for free circulation at a price less than its normal value.

“Interested parties (persons)” shall mean a foreign exporter, producer or the importer of a product subject to an anti-dumping investigation, or a trade or business association a majority of the members of which are producers, foreign exporters or importers of such product, the government of the exporting country, the Government of the Kyrgyz Republic, a producer of the like product in the Kyrgyz Republic or a trade and business association a majority of the members of which produce the like product in the Kyrgyz Republic;

“Normal value” shall mean the value based on the price paid or payable in the ordinary course of trade operations in the exporting and/or producing country, in the course of sale of the good that is like to the good importation/supply of which is the subject of an anti-dumping investigation.

“Domestic producers” shall mean the producers of the like products in the Kyrgyz Republic aggregated production output of which is considered to be sufficient for an anti-dumping investigation to be conducted.

“Official bodies of the country” shall mean an embassy, consulate, trade representative office and other State bodies of other countries involved into the investigation.

“Like goods” shall mean goods which are identical or similar;

“Identical goods” shall mean goods which are similar in all respects;

“Similar goods” shall mean goods which are not similar in all respects but have like characteristics and consist of similar components;

“Supplier” shall mean a foreign producer or exporter or the importer of the dumped product.

“Regional producers” shall mean aggregate producers of the like product in the regional market, under the condition that:

- the producers sell all or the major part of their product in that market;
- the producers of the Kyrgyz Republic from other regions shall not provide the like product to that region.

“Hearings” shall mean one of the anti-dumping investigation procedures, conducted by the Authorized Body, in order to provide interested parties with the opportunity to consider disputable issues;

“Customs clearance” shall mean executions of actions in order to allocate the products under a certain customs regime and complete this regime in accordance with the requirements and provisions of the Customs legislation of the Kyrgyz Republic.

“The Authorized Body” shall mean the State body of the Government of the Kyrgyz Republic conducting an anti-dumping investigation upon applications of domestic producers or on its own initiative.

“Export price” shall mean price actually paid or payable for the goods with respect to which an investigation is being conducted

Article 2 Sphere of Application of This Law

The present Law shall govern relations:

- arising due to injury caused or a threat to cause injury to domestic producers by importation of goods to the customs territory of the Kyrgyz Republic for free circulation at a price less than their normal value;
- arising between the Authorized Body and interested parties as well as between different interested parties.

Article 3 Goals and Principles of Anti-Dumping Legislation of the Kyrgyz Republic

1. The goals of anti-dumping legislation shall be protection of domestic producers against unfair competition on part of suppliers of like products and elimination of harmful consequences for the economy of the Kyrgyz Republic.

2. Anti-dumping measures shall be applied only under circumstances when trade practice of suppliers leads to unfair competition.

3. Anti-dumping measures specified by the present Law shall be applied provided that the anti-dumping investigation has been conducted in accordance with anti-dumping legislation.

Article 4 Legislation of the Kyrgyz Republic on Anti-Dumping

1. Legislation of the Kyrgyz Republic On Anti-Dumping shall include: the present Law, other legislative acts and normative legal acts of the President and Government of the Kyrgyz Republic adopted in accordance with them, as well as normative legal acts of the Authorized Body.

2. If an international treaty or agreement ratified by the Kyrgyz Republic establishes rules other than those contained in the present Law, the rules of the international treaty or agreement shall be applied.

CHAPTER 2 THE STATE ANTI-DUMPING SUPERVISION

Article 5 Organization of the State Anti-Dumping Supervision

1. The general management of the State anti-dumping control over trade practice of the suppliers of the dumped product shall be exercised by the Government of the Kyrgyz Republic in accordance with the anti-dumping legislation.

2. Direct activity on supervision and anti-dumping investigation shall be carried out by the Authorized Body to be determined by the Government or created by the President of the Kyrgyz Republic according to established procedure.

Article 6 The Authorized Body

1. The Authorized Body operates within the framework of authorities provided by this Law and on the basis of a regulation to be adopted by the Government of the Kyrgyz Republic.

2. In cases stipulated by this Law, other legislative acts of the Kyrgyz Republic and normative legal acts of the President and Government of the Kyrgyz Republic, the Authorized Body shall, within its competence, issue the normative legal acts, including acts on the procedures of anti-dumping investigation, as well as submit the drafts of resolutions to the Government of the Kyrgyz Republic.

3. The anti-dumping duties shall be introduced by the decision of the Government of the Kyrgyz Republic upon the proposal of the Authorized Body.

4. While implementing its functions, the Authorized Body shall cooperate with the official bodies of other countries and international organizations.

CHAPTER 3 ANTI-DUMPING INVESTIGATION

Article 7 The Subject of Anti-dumping Investigation

The subject of an anti-dumping investigation shall be the import/supply of products to the customs territory of the Kyrgyz Republic for free circulation at prices less than their normal value causing injury or threatening to cause injury to domestic producers of like products.

Article 8 Application on Determination of the Existence of Dumping and Injury

1. Application on determination of the existence of dumping and injury shall be submitted by domestic producers or on behalf of the domestic producers in written form to the Authorized Body.
2. The application shall contain the following information:
 - name of the applicant, applicants (hereinafter referred to as applicant), information on the production of a good by an applicant (volume and prices) as well as information about the production of the like product by domestic producers known to the applicant;
 - description of the product, name of the country of export or origin, information on known foreign exporters, producers and importers of this product to the customs territory of the Kyrgyz Republic, quality characteristics of this product;
 - on prices at which the product in question is sold in the markets of countries of origin or export, information on export prices as well as domestic market prices of the like product;
 - on the dynamics of the volume of supply of the dumped products, its impact on prices of the like product in the domestic market and harmful consequences of supplying such a product.
3. The application shall be considered accepted if the Authorized Body recognizes the information provided to be sufficient and informs the applicant of that in writing. Prior to investigating, the Authorized Body shall be obligated to notify the Government of an Exporting Country.

Where the Authorized Body considers that the information is insufficient, it must notify the applicant about that within 10 days and provide him the opportunity to amend or supplement his application.

Where the applicant amends or supplements his application, the term for its examination shall apply as of the date of receipt of supplements and amendments.

Article 9 Obligatory Requirements for the Initiation of Anti-Dumping Investigation Procedure on the Application

For the initiation of an anti-dumping investigation procedure, the Authorized Body shall provide the observance of the following conditions:

- (a) objectiveness of the examination and maximum account of domestic producers' opinions through revelation of the applicant's share in aggregated domestic production of the product in respect of which the request was submitted to examine the existence of dumping and injury. For this purpose the Authorized Body has the right to obtain the opinions of other producers of like products and consumers of this product concerning the application;
- (b) the application shall be considered by the Authorized Body to have been made on behalf of domestic producers, and according to it an anti-dumping investigation is initiated, if it is supported by those domestic producers whose collective output constitutes more than 50 per cent of the production volume of the like or directly competing products produced by the domestic producers who have expressed their opinion on the application. These opinions may be «for» and «against» as well as do not express a certain attitude. Domestic producers supporting the application should

account for at least 25 per cent of total volume of domestic production of the like product.

Article 10 Initiation of Anti-Dumping Investigation on the Initiative of the Authorized Body

In case where there is sufficient evidence of dumping and injury caused by importation of the dumped product, the Authorized Body shall have the right, in accordance with the procedure established by the Government of the Kyrgyz Republic, to make a decision on the initiation of an anti-dumping investigation on its own initiative.

Article 11 Grounds for Refusal to Initiate Anti-Dumping Investigation Procedure

The Authorized Body shall refuse to initiate the anti-dumping investigation procedure on the accepted application if it established that :

- (a) the margin of dumping is *de minimis* which means that the margin of dumping is less than 2 per cent of the export price; or
- (b) the volume of dumped imports and the injury is insignificant, i.e. the volume of dumped imports from the country with respect to which the application has been submitted constitutes less than 3 per cent of total volume of imports of all like products into the Kyrgyz Republic, except cases when the volume of imports of a product which is similar to the dumped product from the WTO Members which individually in imports of such product account for less than 3 per cent of total volume of imports of the like product to the Kyrgyz Republic collectively accounts for more than 7 per cent of total volume of imports of the like product in the Kyrgyz Republic.

Article 12 Withdrawal of Application on Determination of the Existence of Dumping and Injury

An applicant may withdraw the application prior to initiation or in the process of the anti-dumping investigation. In case where the application has been withdrawn prior to initiation of the anti-dumping investigation, it shall be considered as non-submitted. If the application is withdrawn in the course of the anti-dumping investigation, the Authorized Body shall have the right to continue the anti-dumping investigation or terminate it without undertaking any measures.

Article 13 Decision on Initiation of the Procedure of Anti-Dumping Investigation

Any decision to initiate or refuse the initiation of an anti-dumping investigation procedure shall be made by the Authorized Body within 60 days as of the date the application is accepted.

The decision to initiate or refuse to initiate an anti-dumping investigation procedure shall be made on the basis of study of all the data provided in compliance with the conditions set forth in Articles 9 and 11 of this Law.

The Authorized Body shall inform all interested parties of the decision made, and in case of refusal it shall inform about the reasons of the decision made.

Article 14 Notification on Initiation of Anti-Dumping Investigation Procedure

1. After the decision to initiate an anti-dumping investigation procedure is made the Authorized Body shall:
 - (a) notify all interested parties about the initiation of the anti-dumping investigation procedure;
 - (b) publish a notification in official mass media edition;
2. Notification on the initiation of an anti-dumping investigation procedure must contain the following information:
 - (a) the name of the exporting country or countries and the product which is the subject of the anti-dumping investigation;
 - (b) the date of initiation of the anti-dumping investigation;
 - (c) statement of evidence confirming the existence of dumping, including assessment of quality characteristics if the product which is the subject of the anti-dumping investigation;
 - (d) a summary of factors on which the allegation of injury is based;
 - (e) the time-limits within which interested parties must submit their applications in order to get acquainted with the case and announce their opinions and request a hearing of the case.

Article 15 Familiarization with the Application on Verification of the Existence of Dumping and Injury

1. After initiation of an anti-dumping investigation the Authorized Body must provide the full text of the application to known exporters and the Government of Exporting Country and to all other interested parties upon their request, provided that confidential information must not be disclosed.
2. In the event if the majority of people are involved into the anti-dumping investigation, the Authorized Body may provide the text of the application only to the official power bodies of the exporting and/or producing country or countries or appropriate trade associations/unions.

CHAPTER 4 THE ORDER FOR DETERMINATION OF DUMPING

Article 16 Dumped Product

The product imported from the other country to the Kyrgyz Republic at a price lower than its normal value shall be considered as dumped, if the export price for this product is lower than the price established in the course of ordinary trade operations for a like product destined for consumption in the exporting and/or producing country and the quality of the product corresponds to the quality of a product produced by domestic producers.

Article 17 Determination of the Normal Value of a Good

1. Sales between related buyers shall not be considered to be performed in the framework of ordinary trade transactions and shall not be taken into account in determining the normal value,

except for the cases when proofs have been presented confirming that the fact of relationship has not affected the value of the product.

2. In the case where the product is imported to the Kyrgyz Republic not from the country of origin but from another exporting country, the Authorized Body shall determine normal value, as a rule, on the basis of the price paid or payable in this exporting country (hereinafter referred to as country of export).

Normal value shall be determined according to the price in the country of origin in the following cases:

- if goods are only trans-shipped (transported) through the country of export
- if like goods are not produced in the country of export
- if there is no comparable price for such products in the country of export.

3. In the case where it is impossible to determine the normal value of a product based on prices in the domestic market of the exporting and/or producing country (due to the reasons that sale of like goods is not available or such sales do not allow to make appropriate comparison because of a specific market situation or not big volume of sales in the domestic market of the exporting and/or producing country), the Authorized Body shall determine the dumping margin by means of :

- (a) comparison with the comparable price of the like good of the like quality exported to a third country, under condition that sales of this product are made in sufficient quantities;
- (b) comparison with a constructed value, including production and sales costs, as well as profit determined in accordance with Article 18 of this Law.

4. Sales of a like product of like quality may be considered by the Authorized Body as made in sufficient quantity to determine the normal value, if their amount for the consumption in the internal market of the exporting and/or producing country is not less than 5 per cent of the sales volume of this product to the Kyrgyz Republic. The Authorized Body may apply a lower sales percentage indicator for appropriate comparison in the presence of evidence of significant volume of sales.

Article 18 Calculation of Production Costs and Profit

1. The Authorized Body shall make calculations of production costs on the basis of accounting documents of a supplier, in respect of whom an anti-dumping investigation is conducted, under the condition that such documents comply with the generally accepted accounting principles and standards of the exporting and/or producing country and accurately reflect the costs related to production and sale of the product.

2. The Authorized Body shall consider all available evidence of correct allocation of costs, including those submitted by the supplier in the course of the anti-dumping investigation, under the condition that such distribution is usually used by the supplier in particular for the purpose of fixing the appropriate terms and norms of depreciation, capital expenditures and other costs for the development of production.

3. The Authorized Body shall adjust costs, taking into account non-recurrent items of expenses for the development of production, or in the period of formation of production. Adjustments for the period of formation of production shall account the costs by the end of this period. If the period of formation of the production is beyond the time period for which the information is examined, then the recent expenses are accounted, which may be taken into consideration by the Authorized Body.

4. The amount of costs as well as profit shall be based on the actual data on production and sales of like goods in the process of ordinary trade transactions presented by a supplier in respect of whom an anti-dumping investigation is conducted. If such amounts cannot be determined on this basis, they shall be determined on the basis of:

- (a) actual amounts paid or received by this or another supplier in connection with production and sale of the like product in the domestic market of the country of export and/or origin.
- (a) the average weighted actual amounts paid or received by other suppliers in respect of whom an anti-dumping investigation is being conducted in connection with the production and sales of a similar product of one quality in the domestic market of the country of export and/or origin.

5. If it is not possible to apply either of these methods, the Authorized Body shall have the right to use any other reasonable method, under the condition that the amount for profit established by such method does not exceed the profit obtained by other suppliers while selling like products of the same category in the domestic market of the country of export and/or origin.

Article 19 Calculation of Export Price

1. In cases where there is no export price or where it appears to the Authorized Body, involved into investigation, that the export price is unreliable because of association or a compensatory agreement between the exporter and the importer or a third party, the export price may be constructed on the basis of the price at which the imported products are first resold to a buyer unrelated to the supplier or the seller, or on another basis to be determined by the Authorized Body.

2. Under circumstances stipulated by paragraph 1 of this Article, while calculating the export price, the Authorized Body shall be entitled to omit all the transactions between the related parties.

Article 20 Comparison of Export Price and Normal Value

1. The Authorized Body shall make comparison of the export price and the normal value of a product. Such comparison shall be made at the same level of a trade transaction, usually at the ex factory level, and in respect of sales carried out as nearly as possible the same time. In each case all the necessary changes shall be made, taking into account differences which affect comparability of prices, including differences in conditions and terms of delivery, taxation, level of trade transaction, quantities, quality characteristics and also any other differences in respect of which the interested parties provide evidence of their impact upon the price comparability.

2. In the cases stipulated by Article 19 of this Law and pursuant to Article 18 of this Law, corrections for the expenses, including duties and taxes paid in the period between importation and resale, as well as for the amount of profit obtained from importation and distribution of the product shall be made. If in such cases comparability of prices is affected, the Authorized Body shall establish the normal value at a level of trade equivalent to the level at which the export price was calculated, or shall make necessary changes allowed by this Article.

3. The Authorized Body shall have the right to require the information necessary for comparison from the interested parties. In each concrete case the Authorized Body shall establish the necessary procedure for providing evidence by each interested party.

Article 21 Calculation of the Margin of Dumping

1. The presence of the margin of dumping shall be determined on the basis of comparison of a weighted average normal value with a weighted average price of all comparable export transactions, or by comparison of normal value with export prices in each concrete transaction.

2. Normal value determined on the weighted average basis may be compared with the prices of concrete export transactions if the Authorized Body finds that the export prices are significantly different for different buyers, regions or time periods. In such circumstances the Authorized Body shall give an explanation to the interested parties, why such differences can not be taken into account while comparing either weighted average quantities or the concrete transaction prices. A brief explanation shall also be given in the notification on application of provisional anti-dumping measures or anti-dumping duties.

Article 22 The Procedure for Determination of Margin of Dumping

1. The Authorized Body shall determine an individual margin of dumping for each supplier of the product involved in an anti-dumping investigation.

2. In cases where a big number of suppliers or types of products involved in an anti-dumping investigation makes it practically impossible to determine the individual amount of dumping for each of them, the Authorized Body may limit the research by the utilization of a more valid sample of suppliers or types of goods on the basis of information available to the Authorized Body at the moment of making the selection, or by the highest percentage of the volume of exports from the country involved in the anti-dumping investigation.

3. In cases where the Authorized Body restricts the investigation as it is stipulated in this Article, the suppliers not initially included into the sample may also provide data. The Authorized Body shall determine the individual amount of dumping for each supplier, not initially included into the sample, if he provides the necessary information within the time frame when it is to be taken into account in the course of the anti-dumping investigation, except for the cases where a large number of the suppliers in case of individual consideration would prolong the period of the anti-dumping investigation period and interrupt the timely completion of the case.

Article 23 Sales at a Price Lower Than the Level of Costs and Sales

1. The Authorized Body shall not consider the sales of the product, with respect to which the anti-dumping investigation is carried out, in the domestic market of the exporting country and/or producing country or sales to a third country at prices lower than the level of the production and sales costs per unit of the product as sales made in the ordinary course of trade transactions, because of the under-pricing and shall not take into account these sales while determining the normal value in cases if the sales took place:

- (a) within an extended period of time (up to one year, but not less than six months);
- (b) in substantial quantities;
- (c) at prices which do not provide for the recovery of all costs within a reasonably necessary period of time.

2. Sales at prices lower than the level of costs per production unit shall be considered as made in substantial quantities if the Authorized Body determines that:

- (a) the weighted average sale price in transactions being taken into account in the process of determination of normal value is lower than the weighted average costs per production of one unit of a product; or
- (b) the volume of sales at prices lower than the production costs per unit of production is not less than twenty percent of the volume of sales in transactions being taken into account in determination of normal value.

3. Prices that are lower than the production costs per one production unit at the moment of sale and higher than weighted average production costs in the period of investigation shall be considered by the Authorized Body as providing for the recovery of all costs within a reasonably necessary period of time.

Article 24 Currency Conversion on Dumping Determination

If comparison of an export price and normal value requires a conversion of currencies, the Authorized Body should make such conversion using an objectively justified exchange rate. Normally the date of contract, purchase order, confirmation of the order or invoice shall be considered the date of sale, depending on the document determining the terms and conditions of sale.

If export shipment is directly connected with a sale of foreign currency by a supplier, received as a payment for this supply in forward currency markets, the Authorized Body must take into account the exchange rate used by the supplier for the sale of the aforementioned currency for an appropriate term.

The Authorized Body shall not take into account short term fluctuations of the exchange rates and suppliers shall be allowed not less than 60 days for correction of their export prices taking into account tendency towards changes of the exchange rates during the investigation period.

CHAPTER 5 DETERMINATION OF INJURY

Article 25 Principles of Injury Determination

Determination of injury shall be based on evidence and shall include the examination of the volume of dumped imports, quality and its impact on prices of like products in the domestic market and the consequences of such imports for the domestic producers of these products.

Article 26 Cumulative Evaluation of Injury

Where imports of a product from more than one country are subject to simultaneously held anti-dumping investigations, the Authorized Body may evaluate the cumulative impact of such imports only if it is determined that the margin of dumping determined in respect of imports from each country is higher than *de minimis* and the volume of imports from each country is not negligible as stipulated in Article 11 of this Law and cumulative evaluation of the impact of imports is economically justified both in competition between imported products and between imported products and like products domestically produced.

Article 27 Research of Volume and Prices of Dumped Imports

1. While examining the volume of dumped imports, the Authorized Body shall determine whether a significant increase of dumped imports took place in absolute amount or relative to production or consumption in the Kyrgyz Republic.

2. While examining the impact of dumped imports on prices, the Authorized Body shall determine the level of under-pricing of such imports in comparison with the price of the like product in the Kyrgyz Republic or to what degree the dumped imports affect the decline of prices or prevent their increase which should have taken place otherwise.

Article 28 Evaluation of Impact of Dumped Imports on Domestic Producers

1. The examination of the impact of dumped imports on domestic producers shall include evaluation of all relevant economic factors and indexes affecting the condition of this production by the Authorized Body, including :

- actual and potential decline in sales, profit, production, market share, productivity, effectiveness of investments or utilization of facilities;
- factors affecting the prices in the domestic market, including quality characteristics of the product;
- margin of dumping;
- actual and potential impact on cash flows, inventories, employment, wages, growth rate, opportunity to attract capital or investments.

This list is not complete and the Authorized Body may evaluate other economic factors and indicators as well, affecting the condition of this production.

2. In order to provide comparison of the production conditions of the dumped product and like product in the Kyrgyz Republic, and also to exclude the impact of other factors not caused by dumped imports, the Authorized Body shall conduct investigation of domestic production of the like product on the basis of examination of its production-technological process, sales of the like product by domestic producers and obtained profit.

3. Where the Authorized Body does not have necessary information on the group of like domestically produced goods, the impact of dumped imports shall be evaluated by examination of domestic production of a more narrow group of products included into the group of like products on which necessary information can be provided.

Article 29 Evidence of Injury

1. The Authorized Body must prove on the basis of actual data that dumped imports cause injury to domestic producers as a result of dumping. In order to prove the causal link between the dumped imports and injury to the domestic producers the Authorized Body shall use any actual data provided by interested persons.

2. The Authorized Body shall examine the influence of other known factors (other than the dumped imports) which have been functioning in the investigation period and have caused injury to the domestic producers. Such injury must not be deemed as arising as a result of importation of a dumped product. These factors include, specifically, volume and prices of an imported product which was not sold at dumped prices, reduction of demand or changes in consumption structure, restrictive trade practices and competition between foreign and domestic producers, achievements in technology as well as the export results and effectiveness of domestic industry.

Article 30 Injury to Regional Producers

Where there is a concentration of dumped imports in a separate regional market of the Kyrgyz Republic and these imports cause injury to the regional producers, the Authorized Body shall have the

right to conduct an anti-dumping investigation in accordance with the provisions of this Law applied to that region.

Article 31 Threat of Injury

1. The threat of injury shall be based on facts and not on assumptions or future prospects and shall be certainly anticipated and inevitable. The Authorized Body must substantiate the threat of injury to domestic producers caused by dumped imports on the basis of analysis of the following factors:

- (a) significant growth rates of dumped imports to the domestic market, pointing to the possibility of a future increase in imports;
- (b) the supplier has sufficient export potential or potential for an inevitable significant increase of exports indicating the possibility of a further significant increase in dumped imports to the Kyrgyz Republic. The possibility for other export markets to absorb any anticipated volume of additional imports shall be taken into account.
- (c) imports at prices which will have a significant declining or depressing influence on the prices in the domestic market and may increase the demand for additional imports;
- (d) inventories of goods in the country of export and/or production, in respect of which an anti-dumping investigation is held.

CHAPTER 6 THE PROCEDURE OF ANTI-DUMPING INVESTIGATION

Article 32 Terms of Anti-Dumping Investigation

The term for anti-dumping investigations on dumping and injury shall be established for up to six months. In exclusive cases, upon the decision of the Authorized Body, an anti-dumping investigation may be extended for 6 months.

Article 33 Information on Anti-Dumping Investigation

1. After initiation of an anti-dumping investigation, the Authorized Body shall send questionnaires/requests to all interested parties.

The interested parties shall be given thirty days for reply. This term may be extended by the Authorized Body, but not more than for thirty days. The questionnaire shall be deemed received in 7 days from the date it was sent by mail or transmitted to a representative of the interested party.

In the course of the anti-dumping investigation the Authorized Body may request additional information from the interested parties establishing the term by which the response must be provided.

2. Each interested party shall have the right to present in writing any other evidence which it considers necessary. Written evidence shall not be accepted after a period of 10 days following the hearings stipulated by Article 38 of this Law.

Article 34 Confidentiality of Information on Anti-Dumping Investigation

1. Information provided in the course of an anti-dumping investigation to the Authorized Body as confidential shall not be disclosed in any way without written permission of the party submitting it.

2. The party providing confidential information shall furnish a non-confidential explanatory note thereof.

The explanatory note must be detailed enough in order to understand the substance of the information or explain the reasons for why provision of more detailed non-confidential information is impossible.

3. If the Authorized Body finds that confidentiality requirement is not warranted or if the supplier of the information is either unwilling to make the information public or does not authorize its disclosure, the Authorized Body may disregard such information, except for the cases when it is proved that the information is accurate/reliable.

4. The person responsible for disclosure of confidential information shall bear responsibility in accordance with legislation of the Kyrgyz Republic.

Article 35 Verification of Information Provided Pursuant to the Procedures of Anti-Dumping Investigation

1. In order to verify accuracy of information or to obtain additional data, the Authorized Body may carry out anti-dumping investigations on the territory of these countries, provided that there is an agreement of appropriate exporters and/or producers and there is no objection from official bodies of these countries. An anti-dumping investigation on the territory of the WTO Members shall be performed in accordance with procedures established by the WTO.

2. In order to examine information on the presence of dumping, the Authorized Body shall select the period from six months up to one year directly preceding the date of initiation of the anti-dumping investigation, and information regarding injury may be checked in the period of up to four years.

Article 36 Sufficiency of Available Information on Anti-Dumping Investigation

Where any interested party does not provide necessary information in terms established by the Authorized Body or otherwise impedes an anti-dumping investigation, the Authorized Body shall have the right to make decisions on the basis of information available.

Article 37 The Order of Maintenance of a File Case

1. The Authorized Body shall maintain a file for each anti-dumping investigation according to established order. All the required documents relating to a concrete anti-dumping investigation shall be filed, terms of keeping shall be determined by the Authorized Body.

2. Documents of the file shall be provided to the interested parties for familiarization upon their request in the course of the antidumping investigation and review of the case.

Article 38 Hearings

1. Interested parties shall be entitled to request the Authorized Body for a hearing on the case in order to get familiar with the materials of the case and arguments of the other party.

2. Hearings shall be chaired by an official of the Authorized Body which shall ensure that confidentiality is preserved. Representatives of the Authorized Body and witnesses of the parties, provided that the interested party shall notify about them in advance, shall be present at hearings. Each party shall be entitled for one hearing to be held.

3. Interested parties shall be entitled to provide additional information to the Authorized Body within 10 days after the hearing has been held.

4. Additional hearing may be held if the request of the interested parties on additional hearing is justified.

5. The Authorized Body shall keep the protocol of the hearings. Interested parties shall have the right to provide additional information during the hearings. Oral information shall be accepted for consideration by the Authorized Body only after its written confirmation.

Article 39 Preliminary Positive Ruling

On the basis of actual information, received in the course of an anti-dumping investigation, the Authorized Body shall make a preliminary ruling in respect of the presence of dumping and injury that the dumping causes to the domestic producers.

Article 40 Provisional Anti-Dumping Measures and Order of Application

1. Upon reaching a preliminary positive ruling on the presence of dumping and injury, the Authorized Body shall send a notice of intention to apply provisional anti-dumping measures to all interested entities and official bodies of their countries. The entities involved in the investigation shall have the right to present their written comments in respect of the grounds of imposition of provisional anti-dumping measures within 10 days following notification.

2. The decision on the imposition of provisional anti-dumping measures shall be made by the Government of the Kyrgyz Republic as petitioned by the Authorized Body. Provisional anti-dumping measures in the form of provisional duties, cash deposit or pledge liability may be imposed on the supplier only after a preliminary positive ruling is made but not earlier than in 60 days from the moment of initiation of the investigation. Provisional measures shall not be greater than the dumping amount established provisionally.

3. Provisional anti-dumping measures shall be applied by the Customs Bodies of the Kyrgyz Republic only for the products released for free circulation to its customs territory after the date of publication of the governmental decision on their application.

Article 41 Publication of the Decision on Imposition of Provisional Anti-Dumping Measures

The decision of the Government of the Kyrgyz Republic to introduce anti-dumping provisional measures must be published in the official mass media edition and must contain the following information:

- the names of suppliers or the supplying countries;
- a detailed description of the product (sufficient for customs purposes) with indication of quality characteristics;
- determined dumping amount and a full explanation of the reasons for the methodology used in the calculations;
- the rate of anti-dumping provisional duties, amount of cash deposit or pledge liability, and terms of their application;
- criteria of the injury determination
- the main reasons for application of provisional measures;
- any other information necessary for understanding of the factual circumstances and legal aspects.

The publication shall not contain confidential information.

Article 42 Effective Term of Anti-Dumping Provisional Measures

Anti-dumping provisional measures may be imposed for the term not exceeding six months, but in case where the provisional anti-dumping measures are not sufficient to eliminate injury within six months the period of their validity may be extended for up to nine months.

CHAPTER 7 COMPLETION OF ANTI-DUMPING INVESTIGATION

Article 43 Completion of Anti-Dumping Investigation

1. Not later than one month before a final decision is made, the Authorized Body must inform all interested parties in the written form about the main facts, on basis of which the final decision will be made.

The interested parties shall be granted 15 days to provide their comments on the indicated facts to the Authorized Body.

2. Anti-dumping investigations held by the Authorized Body on determination of dumping, injury and connections therewith may result in the following decisions:

- termination of an anti-dumping investigation without measures undertaken;
- undertaking of prices obligation by exporter and/or producer;
- introduction of anti-dumping duties.

Article 44 Grounds for Termination of Anti-Dumping Investigation Without Measures Taken

1. An anti-dumping investigation shall be terminated without measures being taken if it is established that:

- (a) there is not sufficient evidence of dumping or injury;
- (b) the margin of dumping is *de minimis*, or the volume of dumped imports (actual or potential) or the amount of injury is negligible in accordance with the provisions of Article 11 of this Law.

Article 45 Determination of the Amount of Anti-Dumping Duties

1. The anti-dumping duties shall be established in the amount sufficient for the elimination of injury caused by dumping. The amount of anti-dumping duty shall not exceed the margin of dumping.

2. In case the amount paid in connection with imposition of anti-dumping provisional measures is higher than the margin of dumping, the supplier shall have a right to refund of the exceeding sum. The Authorized Body shall make a decision on refund of the amount paid in excess of the margin of dumping upon the supplier's justified request on refund. A decision on refund has to be made within 30 days. After the decision on refund is made, the amount paid in excess shall be refunded within 90 days.

Article 46 Introduction of Anti-Dumping Duties

1. Decision on introduction of anti-dumping duties and rate thereof shall be made by the Government of the Kyrgyz Republic upon the proposal of the Authorized Body and shall be effective after it has been approved by the Legislative Assembly of Jogorku Kenesh of the Kyrgyz Republic and officially published in the official mass media edition. The publication must contain information

pursuant to Article 41 of this Law, as well as the reasons for the acceptance or rejection of arguments or claims of the suppliers.

2. On the basis of the decision of the Government of the Kyrgyz Republic on the introduction of anti-dumping duty, the Customs Bodies of the Kyrgyz Republic shall impose it on all imported products in respect of which an anti-dumping investigation has been held, except for the goods of the suppliers from which price undertakings have been accepted.

Article 47 Anti-Dumping Investigation in Respect of Third Parties

1. If after completion of an anti-dumping investigation a third party not related to other suppliers of goods on which anti-dumping duties are imposed initiates the importation of a like good, the anti-dumping investigation shall be initiated within 30 days and completed no later than 12 months after the day on which the application has been received.

2. In the course of an anti-dumping investigation, anti-dumping duties in respect of a third party shall not be applied, but the Authorized Body shall have the right to apply provisional anti-dumping measures.

Article 48 Terms for Initiation of the Application of Anti-Dumping Duties

1. The anti-dumping duties can not be imposed on the goods released for free circulation prior to the date of initiation of an anti-dumping investigation.

2. Provisional anti-dumping measures and anti-dumping duties shall be applied only to the products released for free circulation after publication and effectiveness of the decisions on the introduction of these measures and duties, except for cases stipulated in paragraphs 3 and 4 of this Article.

3. Anti-dumping duties may be imposed from the date of introduction of provisional anti-dumping measures only in cases if measures have been applied to the concerned product and the Authorized Body has made a preliminary positive ruling on the presence of injury or a threat of injury to domestic producers.

4. An anti-dumping duty may be levied on products released for free circulation not earlier than 90 days prior to the date of introduction of provisional measures except for the goods imported within this period of time but before violation of price undertakings, if in the course of the anti-dumping investigation it was established that:

- (a) there is a history of dumping which has been causing injury;
- (b) the injury caused by massive dumped import of a product in a short time is likely to seriously undermine the remedial effect of the anti-dumping duty being introduced.

5. In case there is an evidence on the facts mentioned in items a) and b) of paragraph 4 of this Article, the Authorized Body shall terminate the anti-dumping investigation and shall make a positive conclusion to introduce anti-dumping duties.

Article 49 Effective Term of Anti-Dumping Duties

Anti-dumping duty shall be effective for not more than five years from the date of its imposition or last reconsideration. Reconsideration of anti-dumping duty shall be provided by the Authorized Body on its own initiative or upon a request made by or on behalf of the domestic

producers within 45 days from the date of the notice sent by the Authorized Body on impending termination. If it is established that termination of the duties would entail emergence of injury or its continuation, the Authorized Body shall appeal to the Government of the Kyrgyz Republic to prolong the effective term of the previously introduced anti-dumping duties.

CHAPTER 8 PRICE UNDERTAKINGS

Article 50 Price Undertakings

1. The anti-dumping investigation may be suspended or terminated without imposition of provisional anti-dumping measures or anti-dumping duties upon receipt of a voluntary undertaking from the supplier involved into the anti-dumping investigation to revise the price or to cease import of a product to the Kyrgyz Republic at dumped prices in respect of which the anti-dumping investigation is conducted so to eliminate the injurious effect of the dumping.

2. The Authorized Body shall have no right to require that price increases under such undertakings be higher than the established margin of dumping. Price increases may be less than the dumping margin if the Authorized Body determines that such increase will be sufficient to eliminate the injury.

3. Price undertakings may be suggested by the Authorized Body, but no supplier shall be forced to enter into such an undertaking.

Article 51 Conditions for Acceptance of Price Undertakings

1. Price undertakings may be adopted by the Authorized Body only after a preliminary positive ruling is made, in accordance with Article 39 of this Law, in respect of dumping and injury caused by such dumping.

2. Undertaking on prices cannot be accepted if the Authorized Body considers its acceptance impractical due to the great number of suppliers or by other reasons on which the Authorized Body must inform the supplier.

Article 52 Control over Price Undertakings

1. The Authorized Body shall have the right to require the supplier from whom price undertakings have been accepted to provide information relevant to the fulfilment of the accepted price undertakings and conduct verification on the accuracy of information provided.

2. In case of violation of the accepted price undertakings by the supplier, the Authorized Body shall have the right to impose provisional measures immediately.

Article 53 Effect of Price Undertakings

1. The Authorized Body shall have the right to terminate investigation in the case of fair execution of accepted price undertakings by suppliers.

2. The Authorized Body shall proceed with an anti-dumping investigation upon the acceptance of price undertakings in order to determine the presence of dumping and injury in cases when the supplier, who has accepted a price undertaking, so requests, or on its own initiative.

3. A price undertaking shall be cancelled by the Authorized Body in case no dumping or injury has been found, with exception of cases when the absence of dumping or injury is the result of the accepted price undertaking.

The price undertaking shall be effective until the injury and dumping are eliminated.

Article 54 Notification on the Acceptance of Price Undertaking

1. As soon as a price undertaking is accepted the Authorized Body shall send notification to all interested parties in compliance with the provisions of Article 41 of this Law.

A price undertaking shall become effective in 7 days after notification is sent by mail or handed to the representative of an interested party.

CHAPTER 9 FINAL PROVISIONS

Article 55 Conditions and the order for annulment of anti-dumping provisional measures

1. If the amount of effective anti-dumping provisional measures is less than the imposed anti-dumping duty, the difference shall not be collected, if it is more, the difference shall be reimbursed on one occasion only due to the wish of the supplier or taken into account by the Authorized Body while calculating the amount of anti-dumping duty.

2. Upon the revealing of a threat of injury by the Authorized Body an anti-dumping duty may be imposed only from the date of reaching a positive ruling on the presence of a threat of injury and effective provisional anti-dumping measures shall be cancelled and any cash deposit made during the period of the application of provisional anti-dumping measures shall be refunded and any monetary obligation of the supplier must be cancelled.

3. If in the course of an anti-dumping investigation the Authorized Body discovers that there is neither dumping no injury, all provisional anti-dumping measures shall be terminated within 10 days and withdrawn amounts shall be reimbursed within 30 days in accordance with established order/procedure.

Article 56 Abolishment or Revision of Anti-Dumping Measures

The Authorized Body may any time on its own initiative or upon the initiative of the interested parties consider expediency to continue the application of measures or possibility of their revision, if there are evidences that a product recognized earlier as being dumped is imported at a price close or equal to its normal value which eliminates or decreases the amount of margin of dumping or injury.

In the event it is established that the applicable anti-dumping measures are no longer warranted, the Authorized Body shall introduce the proposal to the Government of the Kyrgyz Republic to abolish or change the amount.

Article 57 Customs Clearance

Effectuation of an anti-dumping investigation shall not be a basis for obstacles in customs clearance of a product.

Article 58 Procedure for Appealing the Decisions

Decisions made by the Authorized Body in accordance with this Law may be appealed in court by interested parties, pursuant to the order stipulated by legislation of the Kyrgyz Republic.

Article 59 The Order of Enforcement of This Law

This Law shall come into force from the moment of its signing.

A. Akaev
President of the Kyrgyz Republic

Adopted by the Legislative Assembly of
Jogorku Kenesh of the Kyrgyz Republic
on 7 October 1998
