

# WORLD TRADE ORGANIZATION

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Committee on Subsidies and  
Countervailing Measures

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## NOTIFICATION OF LAWS AND REGULATIONS UNDER ARTICLE 32.6 OF THE AGREEMENT

FORMER YUGOSLAV REPUBLIC OF MACEDONIA

### Supplement

The following communication, dated 15 September 2005, is being circulated at the request of the Delegation of the Former Yugoslav Republic of Macedonia.

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With reference to Article 32.6 of the Agreement on Subsidies and Countervailing Measures, the Government of the Republic of Macedonia submits the Decision on Procedure and the Method of Determination of Countervailing Duty No. 19-1422/1 of 25 April 1005, relevant to the Agreement. The Decision was published in the Official Gazette Nos. 28/2005 of 28 April 2005. An unofficial translation of the Decision is enclosed.

Pursuant to Article 47, paragraph 7 of the Law on Trade (Official Gazette 16/2004) and Article 36, paragraph 3 of the Law on the Government of the Republic of Macedonia (Official Gazette Nos. 59/2000 and 12/2003), the Government of the Republic of Macedonia on its session held on 25 April 1005 has adopted

**DECISION**  
**on Procedure and Method of Determination of Countervailing Duty**

**Article 1**

This Decision sets up the procedure and the method of determination of countervailing duty.

**Article 2**  
**Principles**

1. The Commission on Protective Measures against Increased and Subsidized Imports (hereinafter: the Commission) shall propose to the Government of the Republic of Macedonia to impose a countervailing duty on products imported into the Republic of Macedonia when, it determines pursuant to an investigation initiated and conducted that the product is subsidized and that there is injury to the domestic industry and a causal link within the meaning of Article 3 and 8 of this Decision.

2. For the purposes of this Decision, a product is considered to be subsidized if it benefits from a countervailable subsidy as defined in Articles 3 and 4.

3. The subsidy may be granted by the government of the country of origin of the imported product, or by the government of an intermediate country from which the product is exported to the Republic of Macedonia (hereinafter: the country of export).

The term "government" is defined, for the purposes of this Decision, as a government or any public body within the territory of the country of origin or export.

4. The term "like product" shall be interpreted to mean a product which is identical, i.e. alike in all respects, to the product under consideration, or in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration.

**Article 3**  
**Definition of a subsidy**

A subsidy shall be deemed to exist if:

1. (a) there is a financial contribution by a government in the country of origin or export, i.e. where:
  - (i) a government practice involves a direct transfer of funds (e.g. grants, loans, equity infusion), potential direct transfers of funds liabilities (e.g. loan guarantees);

- (ii) government revenue that is otherwise due is forgone or not collected (e.g. fiscal incentives such as tax credits);
  - (iii) a government provides goods or services other than general infrastructure, or purchases goods;
  - (iv) a government makes payments to a funding mechanism, or entrusts or directs a private body to carry out one or more of the type of functions illustrated in points (i), (ii), and (iii) which would normally be vested in the government and the practice, in no real sense, differs from practices normally followed by governments;
- (b) there is any form of income or price support within the meaning of Article XVI of the GATT 1994; and
2. a benefit is thereby conferred.

#### **Article 4** **Countervailable subsidies**

1. Subsidies shall be subject to countervailing measures only if they are specific, as defined in paragraphs 2, 3 and 4 of this Article.
2. In order to determine whether a subsidy is specific to an enterprise or industry or group of enterprises or industries (hereinafter: certain enterprises), the following principles shall apply:
- (a) subsidies shall be considered specific where the granting authority or regulations pursuant to which subsidies are granted limit access to subsidies to certain entities;
  - (b) subsidies shall not be considered specific where the granting authority or regulations pursuant to which subsidies are granted establish objective criteria or conditions for subsidy granting, the subsidy amounts as well as when the conditions are prescribed by specific regulation and when access to subsidy is available to all entities that meet requirements of criteria or conditions;
  - (c) if, notwithstanding an appearance of non-specificity resulting from the application of principles laid down in subparagraphs (a) and (b), there are reasons to believe that the subsidy may in fact be specific, other factors may be considered that include: use of a subsidy programme by a limited number of certain enterprises; predominant use by certain enterprises; the granting of disproportionately large amounts of subsidy to certain enterprises; and the manner in which discretion has been exercised by the granting authority in the decision to grant a subsidy.
3. A subsidy which is limited to certain enterprises located within a designated geographical region within the jurisdiction of the granting authority shall be specific.
4. Notwithstanding paragraphs 2 and 3, the following subsidies shall be deemed to be specific:
- (a) subsidies contingent, in law or in fact, whether solely or as one of several other conditions, upon export performance;

- (b) subsidies contingent, whether solely or as one of several other conditions, upon the use of domestic over-imported goods.

5. Any determination of specificity under the provisions of this Article shall be clearly substantiated on the basis of positive evidence.

#### **Article 5** **Calculation of the amount of the countervailable subsidy**

The amount of countervailable subsidies, shall be calculated in terms of the benefit conferred on the recipient which is found to exist during the investigation period. Normally this period shall be the most recent accounting year of the beneficiary, but may be any other period of at least six months prior to the initiation of the investigation for which reliable financial and other relevant data are available.

#### **Article 6** **Calculation of benefit to the recipient**

As regards the calculation of benefit to the recipient, the following rules shall apply:

- (a) government provision of equity capital shall not be considered to confer a benefit, unless the investment can be regarded as inconsistent with the usual investment practice of private investors;
- (b) a loan by the government shall not be considered to confer a benefit, unless there is a difference between the amount that the firm receiving the loan pays on the government loan and the amount that the firm would pay for a comparable commercial loan which the firm could actually obtain on the market. In that event the benefit shall be the difference between these two amounts;
- (c) a loan guarantee by a government shall not be considered to confer a benefit, unless there is a difference between the amount that the firm receiving the guarantee pays on a loan guaranteed by the government and the amount that the firm would pay for a comparable commercial loan in the absence of the government guarantee. In this case the benefit shall be the difference between these two amounts, adjusted for any differences in fees;
- (d) the provision of goods or services or purchase of goods by a government shall not be considered to confer a benefit, unless the provision is made for less than adequate remuneration or the purchase is made for more than adequate remuneration. The adequacy of remuneration shall be determined in relation to prevailing market conditions for the product or service in question in the country of provision or purchase (including price, quality, availability, marketability, transportation and other conditions of purchase or sale).

#### **Article 7** **General provisions on calculation**

1. The amount of the countervailable subsidy shall be determined per unit of the subsidized product.

In establishing this amount the following elements may be deducted from the total subsidy:

- (a) any application fee, or other costs necessarily incurred in order to qualify for, or obtain, the subsidy;
- (b) export taxes, duties or other charges levied on the export of the product to the Republic of Macedonia specifically intended to offset the subsidy.  
Where an interested party claims a deduction, it must prove that the claim is justified.

2. Where the subsidy is not granted by reference to the quantities manufactured, produced, exported or transported, the amount of countervailable subsidy shall be determined by allocating the value of the total subsidy, as appropriate, over the level of production, sales or exports of the products concerned during the investigation period.

3. Where the subsidy can be linked to the acquisition or future acquisition of fixed assets, the amount of the countervailable subsidy shall be calculated by spreading the subsidy across a period, which reflects the normal depreciation of such assets.

Where the assets are non-depreciating, the subsidy shall be valued as an interest free loan.

### **Article 8** **Determination of injury**

1. A determination of injury shall be based on positive evidence and shall involve an objective examination of:

- (a) the volume of the subsidized imports and the effect of the subsidized imports on prices in the Macedonian market for like products; and
- (b) the consequent impact of those imports of the Macedonian industry.

2. With regard to the volume of the subsidized imports, consideration shall be given to whether there has been a significant increase in subsidized imports, either in absolute terms or relative to production or consumption in the Republic of Macedonia. With regard to the effect of subsidized imports on prices, consideration shall be given to whether there has been significant price undercutting by the subsidized imports as compared with the price of a like product of Macedonian industry, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases which would otherwise have occurred, to a significant degree. No one or more of these factors can necessarily give decisive guidance.

3. Where imports of a product from more than one country are simultaneously subject to countervailing duty investigations, the effects of such imports shall be cumulatively assessed only if it is determined that:

- (a) the amount of countervailable subsidies established in relation to the imports from each country is more than *de minimis* as defined in Article 10, paragraph 6 and that the volume of imports from each country is not negligible; and
- (b) a cumulative assessment of the effects of the imports is appropriate in light of the conditions of competition between imported products and the conditions of competition between the imported products and the like domestic product.

4. The examination of the impact of the subsidized imports on the domestic industry shall include an evaluation of all relevant economic factors and indices having a bearing on the state of industry, including: actual and potential decline in production, sales, profits, output, market share, productivity, return on investments, utilization of capacity; factors affecting prices on domestic market; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital or investments and, in the case of agriculture, whether there has been an increased burden on government support programmes. This list is not exhaustive, nor can any one or more of these factors necessarily give decisive guidance.

5. It must be demonstrated, that the subsidized imports are causing injury. A determination of a causal link between the subsidized imports and injury to the domestic industry shall be based on examination of all relevant evidence presented to the Commission. The Commission shall also examine all other factors, than the subsidized imports, which at the same time are causing injury to the domestic industry, to ensure that the injury caused by these other factors is not attributed to the subsidized imports.

6. The effect of the subsidized imports shall be assessed in relation to the domestic production of the like product when available data permit the separate identification of that production on the basis of such criteria as the production process, producers' sales and profits. If such separate identification of that production is not possible, the effects of the subsidized imports shall be assessed by examination of the production of the narrowest group or range of products including the like product, for which the necessary information can be provided.

### **Article 9** **Threat of injury**

A determination of a threat of material injury shall be based on facts.

1. In making a determination regarding the existence of a threat of material injury, consideration should be given to, *inter alia*, such factors as:

- (a) the nature of the subsidy or subsidies in questions and the trade effects likely to arise therefrom;
- (b) a significant rate of increase of subsidized imports into the Republic of Macedonia indicating the likelihood of substantially increased imports;
- (c) sufficient freely disposable capacity of the exporter or an imminent substantial increase in such capacity indicating the likelihood of substantially increased subsidized exports to the Republic of Macedonia, account being taken of the availability of other export markets to absorb any additional exports;
- (d) whether imports are entering at prices that would, to a significant degree, depress prices or prevent price increases which otherwise would have occurred, and would probably increase demand for further imports; and
- (e) inventories of the product being investigated.

2. No one of the factors listed above by itself can necessarily give decisive guidance but the totality of the factors considered must lead to the conclusion that further subsidized exports are imminent and that, unless protective action is taken, material injury will occur.

## **Article 10** **Initiation of proceedings**

1. An investigation shall be initiated upon a claim determined in Article 47, paragraph 7 of the Law on Trade.

The claim as referred to in paragraph 1 of this Article shall contain the following information:

- the claim company and description of the volume and value of the production of the domestic like product. Where a claim is submitted on behalf of the domestic industry, it shall identify the industry on behalf of which the claim is made by a list of all known producers of domestic like products (or associations of producers of the like products) and the description of the volume and value of the domestic production of the like products by such producers;
- a description of the products with pertaining tariff item (8 or 10 figures) and a description pursuant to the Customs Tariff Regulations;
- the names of the country or countries of origin and/or export in question, the identity of each known exporter or foreign producer and a list of known persons importing the product in question; and
- information on the volume of imports, the effect of those imports on prices of the like product in the domestic market and the consequent impact of the imports on the industry, as demonstrated by relevant factors having a bearing on the state of the industry, such as those listed in Article 8, paragraphs 4 and 5 of this Decision.

2. The Commission shall, as far as possible, examine the accuracy and adequacy of the evidence provided in the claim, in order to determine whether there is sufficient evidence to justify the initiation of an investigation.

3. An investigation shall not be initiated unless the Commission has determined, on the basis of an examination as to the degree of support for, or opposition to, the claim expressed by the domestic producers of the like product, that the claim has been made by or on behalf of the domestic industry. The claim shall be considered to have been made by, or on behalf of, the domestic industry if it is supported by those domestic producers whose collective output constitutes more than 50 per cent of the total production of the like product produced by that portion of the domestic industry expressing either support for, or opposition to, the claim.

Investigation shall not be initiated when domestic producers expressly supporting the claim account for less than 25 per cent of total production of the like product produced by the domestic industry.

4. The Commission shall, unless a decision has been made to initiate an investigation, avoid any publicizing of the applicant seeking the initiation of an investigation.

However, as soon as possible after receipt of a properly documented claim and in any event before the initiation of an investigation, the Commission shall notify the country of origin and/or export concerned, which shall be invited for consultations with the aim of clarifying the situation as to matters referred to in claim and arriving at mutually agreed solution.

5. A claim shall be rejected where there is insufficient evidence of either countervailable subsidies or of injury to justify proceeding with the case.

6. The Commission shall not initiate the investigation if it determines that the amount of subsidy is *de minimis* or that the volume of subsidized imports is negligible.

The amount of subsidy shall be considered to be *de minimis* if the subsidy is less than one per cent *ad valorem*.

The volume of subsidized imports from a particular country shall be considered negligible, if it represents less than three per cent of the total imports of like product in the Republic of Macedonia, unless imports from countries whose individual shares of total imports collectively account for more than seven per cent of the total imports of the like product in the Republic of Macedonia.

7. Where during proceeding shall be determined that there is sufficient evidence, the Commission shall initiate a proceeding and shall publish a notice in the "Official Gazette of the Republic of Macedonia".

8. The notice of initiation of the proceedings shall contain indication of the product and countries concerned, give a summary of the information received, and provide that all relevant information is to be communicated to the Commission; it shall state the periods within which interested party may make themselves known, present their views in writing and submit information, if such views and information are to be taken into account during the investigation; it shall also state the period within which interested parties may apply to be heard by the Commission.

9. The Commission shall advise the exporters, importers and country of origin and/or export and other interested parties of the initiation of the proceedings.

## **Article 11** **The investigation**

1. The investigation shall cover simultaneously subsidization and injury. For this purpose the Commission shall deliver a questionnaire to all interested parties considered to dispose with information and data relevant for implementation of investigation, including known domestic producers, importers, exporters and foreign producers.

2. Exporters and foreign producers receiving questionnaires shall be obliged to deliver the replies within 30 days from the receipt of the questionnaire. The day of receipt of the questionnaire shall be deemed the seventh day from the day on which it was sent to the respondent or transmitted to the appropriate diplomatic representative of the country of origin and/or export.

At the request of exporters or foreign producers, the Commission may extend the 30-day period provided that due cause for such extension exists.

3. The Commission may carry out investigations in third countries as required, provided that it obtains the agreement of the firms concerned, that it notifies the country in question and that the latter does not object to the investigation.

4. The interested parties which have made themselves known, during the investigation, shall be heard if they have, within the period prescribed in the notice published in the Official Gazette of the Republic of Macedonia, made a written request for a hearing showing that they are interested party



likely affected by the result of the proceeding and that there are particular reasons why they should be heard.

5. Opportunities shall, on request, be provided for the importers, exporters and the applicants and the government of the country of origin and/or export, to meet those parties having adverse interests, so that opposing views may be presented and rebuttal arguments offered. Provision of such opportunities must take account of the need to preserve confidentiality and of the convenience to the parties.

6. Except in circumstances provided in Article 23 of this Decision, the information which is supplied by interested parties and upon which findings are based shall be examined for accuracy as far as possible.

7. In case the interested parties reject to give information or do not deliver them in the prescribed period, the Commission shall take a decision on the basis of available facts.

8. An investigation shall, except in special circumstances, be concluded by the Commission within one year, and in no case more than 18 months after its initiation.

## **Article 12** **Provisional countervailing duty**

1. The Commission shall propose to the Government of the Republic of Macedonia to take a Decision on provisional countervailing duty if:

- (a) proceeding have been initiated and interested party have been given adequate opportunities to submit the information and make comments;
- b) a provisional affirmative determination has been made that a subsidy exist and that there is injury to a domestic industry caused by subsidized imports; and
- c) such measure is necessary to prevent injury during the investigation.

2. The amount of the provisional countervailing duty shall not exceed the total amount of the subsidy as provisionally established, but it should be less than this amount, if such lesser duty would be adequate to remove the injury to the domestic industry.

3. When the Government of the Republic of Macedonia shall impose provisional countervailing duty, the payment of this duty shall be the condition for releasing the goods for free circulation into the Republic of Macedonia.

4. The provisional countervailing duty shall be applied no earlier than 60 days from the initiation of the proceedings, and shall apply for a maximum period of four months.

## **Article 13** **Undertakings**

1. Investigation may be terminated without imposition of provisional or definitive countervailing duty upon receipt of undertakings under which:

- a) the country of origin and/or export agrees to eliminate or limit the subsidy or take other measures concerning its effects; or
  - b) the exporter agrees to revise its prices or to cease the exports so that the Commission is convinced that injuries effect of the subsidy is eliminated. Price increases shall not be higher than is necessary to offset the amount of the subsidy.
2. Undertakings may be suggested by the Commission, but no country or exporter shall be obliged to enter into such an undertaking.
  3. Undertakings, under paragraphs 1 and 2 of this Article, shall not be sought or accepted from countries or exporters unless a provisional affirmative determination of subsidization and injury caused by such subsidization has been made.
  4. The Commission need not accept undertakings offered if their acceptance is considered impractical (such as where the number of actual or potential exporters is too great or for other reasons). In that case, the exporter and/or country of origin may be provided by the Commission, with the reasons to reject the offer of an undertaking.
  5. If undertakings are accepted, the investigation of subsidization and injury shall normally be completed. In such case, if a negative determination of subsidization or injury is made, the undertaking shall automatically lapse.
  6. The Commission shall require any country or exporter from whom undertakings have been accepted to provide, periodically, information relevant to the fulfilment of such undertaking, and to permit verification of pertinent data. Non-compliance with such requirements shall be construed as a breach of the undertaking.
  7. In the case of breach or withdrawal of undertakings, a definitive countervailing duty shall be imposed, on the basis of the facts established within the context of the investigation, provided that such investigation was concluded with a final determination as to subsidization and injury, and that the exporter concerned, or the county of origin and/or export, has been given an opportunity to comment.
  8. A notice of undertakings with relevant elements shall be published in the Official Gazette of the Republic of Macedonia.

#### **Article 14** **Termination without measures**

1. The request under Article 47, paragraph 2 of the Law on Trade may be withdrawn at any time after an investigation has been initiated in which case, the Commission shall terminate the investigation without proposal for imposition of duties, unless it determines that it is in the interest of the Republic of Macedonia to continue the investigation.
2. The investigation shall be terminated at any time where the Commission is satisfied that there is no sufficient evidence of either subsidization or injury to justify proceeding with the case.

## **Article 15**

### **Imposition of countervailing duty**

1. Where the facts show the existence of countervailable subsidy and injury caused thereby, the Commission pursuant to Article 47, paragraph 2 of the Law on Trade, may propose to the Government of the Republic of Macedonia to pass a decision on imposition of definitive countervailing duty.
2. A definitive countervailing duty shall be imposed in the appropriate amount in each case, on a non-discriminatory basis, on imports of products from all sources found to benefit from subsidies and causing injury, except as to imports from those sources which have renounced any subsidy and from which undertakings have been accepted.
3. The countervailing duty shall not exceed the amount of the countervailable subsidy and should be less than the total amount of the subsidy, if such lesser duty was to be adequate to remove the injury to the domestic industry.
4. If the provisional countervailing duty is lower than the definitive countervailing duty, the difference shall not be collected. If the provisional countervailing duty is higher than the definitive countervailing duty, the difference shall be returned.
5. When the Commission has limited its examination, any countervailing duty applied to imports from exporters or producers, which have made themselves known in accordance with Article 22 of this Decision, but were not included in the examination shall not exceed the weighted average amount of countervailable subsidies established for the parties in the sample.
6. For the purpose of this Article, the Commission shall disregard any zero and *de minimis* amounts of countervailable subsidies and amounts of countervailable subsidies established in the circumstances referred to in Article 23 of this Decision. Individual duties shall be applied to imports from any exporter or producer for which an individual amount of subsidization has been calculated as provided for in Article 22 of this Decision.

## **Article 16**

### **Decision on countervailing duty**

The Decision on imposition of provisional or definitive countervailing duty by the Government of the Republic of Macedonia, shall be published in the "Official Gazette of the Republic of Macedonia".

The Decision referred to in paragraph 1 of this Article shall contain:

- Description of imported product, the tariff classification (8 or 10 digits) and a description pursuant to Customs Tariff Regulations;
- Determined amount of subsidy and the basis on which the existence of a subsidy was determined;
- Data on determined injury based on evidences;
- The amount of countervailing duty;
- Duration of countervailing duty;
- Date from which the countervailing duty shall apply;
- The name of the exporter to which the decision relates; and
- If the decision relates to more exporters from the same country, and it is not possible to enlist them separately, only the exporting country is stated.

### **Article 17** **Retroactivity**

1. Provisional and definitive countervailing duties shall only be applied to products that are imported for consumption after the time when the Decision, under paragraph 1 of Article 12 and paragraph 1 of Article 15, enters into force.
2. As an exception to paragraph 1 of this Article, where a provisional duty has been applied, and the facts as finally established show the existence of countervailable subsidies and injury, the Commission shall propose to the Government of the Republic of Macedonia to pass a decision for collection of provisional duty. In that case, the definitive duty may be imposed only from the date on which a final determination of threat of injury or material retardation to domestic production is made.
3. A definitive countervailing duty may be retroactively imposed on products that were imported for consumption not more than 90 days prior to the date of application of the provisional duty, but not prior to the initiation of the investigation, provided that the importers concerned have been given an opportunity to comment.
4. Definitive countervailing duty referred to in paragraph 3 of this Article may be imposed if:
  - (a) injury which is difficult to repair is caused by massive imports in a relatively short period of a product benefiting from countervailable subsidies; and
  - (b) it is necessary, in order to preclude the recurrence of such injury, to impose a definitive countervailing duty.

### **Article 18** **Duration**

1. A countervailing duty shall remain in force only as long as, and to the extent that, it is necessary to counteract the subsidized imports which is causing injury.
2. A countervailing duty shall expire at latest five years from its imposition or from the date of the most recent review, pursuant to Article 19 of this Decision, if such review has covered both subsidization and injury.
3. The Commission shall, no later than 90 days preceding the date of expiry of the countervailing duty, publish a notice announcing the expiry of the duty in the Official Gazette in the Republic of Macedonia.
4. An expiry review shall be initiated on the initiative of the Commission, or upon a request made by or on behalf of the domestic industry.
5. An expiry review shall be initiated where the request contains sufficient evidence that expiry of the duty would be likely to result in a continuation or recurrence of subsidization and injury.
6. The review request, pursuant to paragraph 4 of this Article, shall be submitted no later than three months before the end of expiration of the measure.
7. The countervailing duty shall remain in force pending the outcome of such review.

**Article 19**  
**Interim reviews**

1. An interim review during validity of duty may be initiated by the Commission upon its own initiative or upon a request by any exporter, importer or by the domestic industry which contains sufficient evidence substantiating the need for such an interim review.
2. The review referred to in paragraph 1 of this Article shall be initiated if the request contains sufficient evidence that the continued application of duty is no longer necessary to offset the subsidy, or that the injury would be unlikely to continue or recur if the duty were removed or varied.
3. The review shall also be initiated if the request contains evidence that existing duty is not, or is no longer, sufficient to counteract the effect of subsidized imports, which is causing injury.
4. The review referred to in paragraph 1 of this Article shall be concluded within one year, and at latest within 15 months from the date of the initiation of the review.
5. Any exporter whose exports are subject to a definitive countervailing duty but who was not individually investigated during the original investigation for reasons other than refusal to cooperate shall be entitled upon request to an accelerated review in order that the Commission may promptly establish an individual countervailing duty for that exporter.

**Article 20**  
**Confidentiality**

1. Any information which is by nature confidential, or which is provided on a confidential basis by parties to an investigation shall, if good cause is shown, be treated as such by the Commission.
2. Interested parties providing confidential information shall be required by the Commission to furnish non-confidential summaries thereof. Those summaries shall be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence.
3. If it is considered that a request for confidentiality is not warranted and if the supplier of the information is either unwilling to make it available or to authorize its disclosure in generalized or summarized form, the Commission may disregard such information.
4. This Article shall not preclude the disclosure of general information by the Commission, and in particular of the reasons on which decisions taken pursuant to this Decisions are based, nor disclosure of the evidence in so far as is necessary to explain those reasons in court proceedings. Such disclosures must take into account the legitimate interests of the parties concerned that their business or governmental secrets should not be divulged.

**Article 21**  
**Verification of information**

1. The Commission shall, where it considers it appropriate, examine the records of importers, exporters, traders, agents, producers, trade associations and organizations to verify information provided on subsidization and injury.

2. The Commission may carry out investigations in third countries as required, provided that it obtains the agreement of the firms concerned, that it notifies the representatives of the government of the country in question and provided that they do not object to the investigation. As soon as the agreement of the firms concerned has been obtained the Commission should notify the country of origin and/or export of the names and addresses of the firms to be visited and the dates agreed.

3. The firms concerned shall be advised of the nature of the information to be verified during verification visits and of any further information, which needs to be provided during such visits. This should not preclude requests made during the verification for further details to be provided in the light of the information obtained.

4. In investigations carried out pursuant to paragraphs 1, 2 and 3 of this Article, the Commission shall be assisted by officials of the countries where the verification has been made.

## **Article 22**

### **Sampling**

1. In cases where the number of producers, exporters or importers, types of product or transactions is large, the investigation may be limited to:

- (a) a reasonable number of parties, products or transactions by using samples which are statistically valid on the basis of information available at the time of the selection; or
- (b) to the largest representative volume of the production, sales or export which can reasonably be investigated within the time available.

2. The selection of parties, types of products or transactions made under this Article shall rest with the Commission, though preference shall be given to choosing a sample in consultation with, and with the consent of, the parties concerned, provided that such parties make themselves known and make sufficient information available, within three weeks of initiation of the investigation.

3. In cases where the examination has been limited in accordance with this Article, an individual amount of countervailable subsidization shall, nevertheless, be calculated for any exporter or producer not initially selected who submits the necessary information within the time limits provided for in this Decision, except where the number of exporters or producers is so large that individual examinations would be unduly burdensome and would prevent completion of the investigation.

4. Where it is decided to sample and there is a degree of non-cooperation by some or all of the parties selected which is likely to material affect the outcome of the investigation, a new sample may be selected. If a material degree of non-cooperation persists or there is insufficient time to select a new sample, the relevant provisions of Article 23 of this Decision shall apply.

## **Article 23**

### **Non-cooperation**

1. In cases in which any interested party refuses access to, or otherwise does not provide, necessary information within the time limits provided in this Decision, or significantly impedes the investigation, provisional or final findings, affirmative or negative, may be made on the basis of the facts available.

Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of the facts available.

Interested parties should be made aware of the consequences of non-cooperation.

2. Failure to give a computerized response shall not be deemed to constitute non-cooperation, provided that the interested party shows that presenting the response as requested would result in an unreasonable extra burden or additional cost.

3. Where the information submitted by an interested party is not ideal in all respects it should nevertheless not be disregarded, provided that any deficiencies are not such as to cause undue difficulty in arriving at a reasonably accurate finding and that the information is appropriately submitted in good time.

4. If evidence or information is not accepted, the supplying party shall be informed forthwith of the reasons therefore and shall be granted an opportunity to provide further explanations within the time limit specified. If the explanations are considered unsatisfactory, the reasons for rejection of such evidence or information shall be disclosed and given in the findings.

5. The Commission may check the information supplied from other independent sources, such as published price lists, official import statistics and customs returns, or information obtained from other interested parties during the investigation, which is important for determination of countervailable subsidy.

#### **Article 24** **Final provisions**

This Decision shall enter into force on the eighth day from its publication in the "Official Gazette of the Republic of Macedonia".

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