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Committee on Anti-Dumping Practices

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

GEORGIA

The following notification, dated 9 October 2020, is being circulated at the request of the delegation of Georgia.

**LAW OF GEORGIA
ON
THE APPLICATION OF ANTIDUMPING MEASURES IN TRADE**

Chapter I. Basic Provisions

Article 1

Scope and Objective of Law

1. The objective of this law is to prevent the domestic industry from the dumped imports on the customs territory of Georgia **(except for free industrial zones)**.

2. Pursuant to principles and norms of the world trade organization, this Law establishes the basic rules and procedures for the application of antidumping measures in time of dumped imports on the customs territory of Georgia.

Article 2

Definitions

a) **Domestic Industry** – shall mean the domestic producers as a whole of the domestic like product producing on the customs territory of Georgia **(except for free industrial zones)**, or those of them whose collective output constitutes the basic proportion of total domestic production of that product except that when producers are related to the exporters or importers or are themselves importers of the allegedly dumped investigated product, the term "Domestic Industry" may be interpreted as referring to the rest of the producers;

b) **Related Persons** – for the definition of the "Domestic Industry" the producers shall be considered as related if:

b.a) one of them directly or indirectly controls the other;

b.b) both of them are directly or indirectly controlled by the third person;

b.c) together they directly or indirectly control a third person, provided that there are grounds for suspecting that the effect of the relationship is such as to cause the producer concerned to behave differently from non-related producers. For the purposes of this subparagraph, one shall be deemed to control another when the former is legally or operationally in a position to exercise restraint or direction over the latter.

c) **Antidumping Measure** – shall mean the provisional antidumping measure and/or the definitive antidumping tariff;

d) **Provisional Antidumping Measure** - shall mean an import restrictive antidumping measure on the customs territory of Georgia, which is applied in a form of provisional antidumping tariff and/or guarantee for the prevention of injury during the investigation to the domestic industry caused by dumped import;

e) **Definitive antidumping tariff** – shall mean an import restrictive antidumping measure on the customs territory of Georgia, which is applied based on the investigation conducted by the relevant authority;

f) **Exporter** – shall mean the person exporting the product on the territory of Georgia;

g) **Importer** – shall mean the person importing on the territory of Georgia;

h) **Interested Parties** – shall mean the following persons:

h.a) Exporter, importer and foreign producer of the investigated product;

h.b) trade or business association a majority of the members of which is a producer, exporter or importer of the investigated product;

h.c) Government of exporter country of investigated product;

h.d) Domestic producer of the like product;

h.e) Customer association;

h.f) Industrial user of the investigated product.

i) **Ordinary Course of Trade** - shall mean the sales of like product in no less than its own cost;

j) **Dumping Margin** – shall mean the difference between the normal value and export price as a proportion of export price.

k) **Injury** – shall mean material injury, or threat of material injury to the domestic industry, which is clearly imminent.

l) **Investigated Product** – shall mean an imported product subjected to the investigation indicated in the notice on the initiation of investigation.

m) **Like Product** – shall mean a product, which is identical, i.e. alike in all respects to the investigated product, or in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the investigated product.

n) **Dumping** – shall mean the sales of the investigated product on the domestic market with less than its normal value; and whereas in case of dumping, the export price of the investigated product, in the ordinary course of trade, is less than comparable price of the like product destined for sales on the domestic market of the exporting country;

o) **Normal Value** – shall mean the price of like product in the ordinary course of trade destined for the domestic consumption in the exporting country, or, in the absence of such price, the comparable price of the like product while destined for export to the appropriate third country in the ordinary course of trade.

Article 3

Investigation

1. The application of definitive antidumping tariff in time of dumped import is preceded by the investigation. The investigation shall be conducted in line with this Law and other legislative norms.

2. Investigation indicated in paragraph 1 of this Article is conducted to determine the existence of the dumped import of the product on the customs territory of Georgia, the injury or threat thereof to the domestic industry caused by the dumped import of the product and to determine the causal link between the injury and dumped import of the product.

Article 4

Investigative Powers

1. For the purpose of this Law, investigation shall be conducted by the Legal Entity of Public Law Competition Agency (hereinafter – Investigating Authority).

2. Investigating Authority is entitled to:

a) Request from administrative bodies all necessary information (including confidential) in order to conduct an investigation. These bodies shall submit the requested information to the investigative authority in the reasonable time;

b) Request from interested parties and other natural or legal persons all necessary information (including confidential) in order to conduct an investigation. These persons shall present the requested information to the investigating authority in line with the rules and procedures established by the Decree of the Government of Georgia. The persons indicated in this paragraph are responsible for the authenticity of the information presented by them;

c) Pursuant to sub-paragraph "b" of paragraph 2 of this Article, in case of doubt over the presented information, verify the authenticity thereof.

d) In case of the failure to present the requested information, draw the relevant conclusion based on the available information.

3. Investigating authority, based on the results of the investigation, shall present to the Government of Georgia the report on the advisability of application, review and withdrawal of definitive antidumping tariff.

4. In case if, during the investigation, according to paragraph 1 of Article 15 of this Law, is determined that the investigated product is dumped and causes injury to domestic industry or thhreat thereof, investigative authority shall present to the Government of Georgia a preliminary report on the application of provisional antidumping measure.

Article 5

Decision on the Application, Review or Withdrawal of Antidumping Measure

1. In a period of 30 days since the advisability report on the application, review or withdrawal of provisional antidumping measure or definitive antidumping tariff has been submitted the Government of Georgia makes a decision on the application, review or withdrawal of such measure.

2. The rule of the decision for the application, review or withdrawal of the provisional antidumping measure or definitive antidumping tariff is approved by the Decree of the Government of Georgia.

Chapter II. Antidumping Measures

Article 6

Basis for Application of an Antidumping Measure

Antidumping measure against an investigated product may be imposed by the Government of Georgia in case if the investigating authority, based on the investigation, determines that there is a dumped import of the investigated product, domestic industry suffered an injury or exists the threat of injury and there is a casual link between the injury and the dumped import.

Article 7

Determination of Dumping

1. Investigated product shall be considered dumped if it is introduced into the domestic market at a price, which is less than its normal value.

2. Sales capacity of the like investigated product in the ordinary course of trade, which is destined for the consumption on domestic market of exporting country, shall be considered as sufficient capacity to determine the normal value, if these sales shall compose 5% or more of the sales of investigated product on the customs territory of Georgia. Lower sales capacity of the like investigated product in the ordinary course of trade shall be considered sufficient to determine the normal value, if there is clear evidence that such capacity enables to determine the comparable price.

3. When there are no sales or insufficient volume of sales of the like investigated product in the ordinary course of trade in the domestic market of the exporting country, or when such sales do not permit a proper comparison because of the particular market situation, the normal value of the investigated product shall be established on the basis of:

- a) A comparable price of the like product when exported to an appropriate third country on the condition that the rule of calculation of this price is illustrative as to the type of product so to the quantities of contracts;
- b) The cost of production in the country of origin plus a reasonable amount for administrative, sales and general costs and for profits.

Article 8

Determination of the normal value in the non-market economy countries

In case of import of the investigated product from those countries where there is no market economy, the normal value shall be determined based on:

- a) The comparable price paid, in the ordinary course of trade, for sales of the like product when destined for consumption in an appropriate market economy country;
- b) The comparable price paid, in the ordinary course of trade, for exports of the like product from an appropriate market economy country to other countries, including Georgia;
- c) When under subparagraphs "a" and "b" of this Article, it is impossible to determine the normal value, it can be determined based on the price actually paid or payable in Georgia for the domestic like product, duly adjusted if necessary to include a profit margin.

Article 9

Sales below cost

1. Sales of the like investigated product in the domestic market of the exporting country or sales to a third country at prices below per unit costs of production plus administrative, sales and general costs may be treated as not being in the ordinary course of trade by reason of price and may be disregarded in determining normal value only if the authorities determine that such sales are:

- a) made for over 6 month period;
- b) In substantial quantities and
- c) At prices which do not provide for the recovery of all costs within a reasonable time.

2. The sales below cost shall be considered as made in substantial quantities when the Investigating Authority establishes that:

- (a) The weighted average sales price of the transactions under consideration for the determination of the normal value is below the weighted average cost;
- (b) The volume of sales below cost represents 20 percent or more of the volume sold in transactions under consideration for the determination of the normal value.

3. If prices which are below cost at the time of sales are above the weighted average cost for the period of investigation, the Investigating Authority shall consider such prices as providing for recovery of costs within a reasonable period of time.

Article 10

Total Costs

The amounts for administrative, sales and general costs and for profits shall base on actual data pertaining to production and sales in the ordinary course of trade of the like product by the exporter or producer under investigation. When such amounts cannot be determined on this basis, the amounts may be determined on the basis of following criteria:

- a) the actual amounts incurred and realized by the exporter or producer in question in respect of production and sales in the domestic market of the country of origin of the same general category of products;
- b) The weighted average of the actual amounts incurred and realized by other exporters or producers subject to investigation in respect of production and sales of the like product in the domestic market of the country of origin;
- c) Any other reasonable method, if the amount for profit so established shall not exceed the profit normally realized by other exporters or producers on sales of products of the same general category in the domestic market of the country of origin.

Article 11

Export Price

1. Export price shall mean the price actually paid or payable to the investigated product during the sales from the exporting country.

2. In cases where there is no information on export price or where it appears to the investigating authority that the export price is unreliable because of interrelationship between the exporter and the importer, also each are related to the third party, the export price may be constructed on the basis of:

- a) the price at which the imported products are first resold to an independent buyer;
- b) any reasonable basis as the investigating authority may determine, if the products are not resold to an independent buyer, or not resold in the condition as imported in the customs territory of Georgia.

3. In case when normal value is determined based on the country of origin, the export price of the investigated product is calculated based on the price on which the investigated product was sold in the country of origin when destined for the export.

Article 12

Price Regulation

1. The comparison between the export price and normal value is based on the principle of impartiality. This type of comparison is conducted at the same stage of trade operations, usually during being transported out -of factory, while with respect to sales, at the same most possible time. In each case, the proper attention is given to those differences affecting the price comparisons, including the differences among sales conditions, timeframes, taxation, trade operation stages, quantities, physical characteristics and any other differences having impact on price comparisons. In the given circumstances, the due consideration is granted to costs, duties and taxes paid, and profits, in the period between imports and resales.

2. If in these cases there are certain impact on price comparisons, the investigating authority shall determine the normal value on the stage of trade operation, which is in line the stage whereto the export price is constructed, or takes into consideration the respective corrections given in the above paragraph. The investigative authority indicates to the interested parties on what type of information is necessary to ensure the impartial comparison.

Article 13

Methods of Comparison

1. The margin of dumping is normally established by the comparison of product normal value weighted average to the weighted average of prices of all comparable export transactions or by a comparison of normal value and export prices on a transaction-to-transaction basis.

2. A normal value established on a weighted average basis may be compared to prices of individual export transactions if the Investigating Authority finds a pattern of export prices, which differs significantly among different purchasers, regions or times. In such circumstances, the investigating authority defines the reasons for non-consideration of such differences during the comparison of weighted average to weighted average and transaction-to-transaction.

Article 14

Determination of Injury

1. Determination of injury to the domestic market and the causal link shall base on the volume of the dumped imports, the effect of the dumped imports on the prices in the domestic markets for like investigated product and the consequent impact of these imports on domestic producers of such products.

2. The determination of a threat of injury shall base on facts, and not merely on allegation and conjecture, that the change in circumstances, which would create a situation in which the dumping would cause injury must be clearly foreseen and imminent.

3. The Investigating Authority besides the dumped imports, shall consider other known factors, which at the same time cause injury to the domestic industry. If the domestic industry suffers injury from other independent factors alongside with dumping import, the injury caused by these factors shall not relate to the dumped import.

Article 15

Application of Provisional Antidumping Tariff

Provisional measures may be applied only if:

- a) an investigation has been initiated in accordance with the provisions of Article 20 of this Law, a public notice has been given to that effect and interested parties have been given an adequate opportunities to submit information and make comments;
- b) investigating authority, during the investigation, determines that the domestic industry has been injured from the dumped import or a threat thereto;
- c) investigating authority determines that such measure is necessary to prevent injury of threat of injury being caused to the domestic industry by dumped import during the investigation.

2. Government of Georgia, based on preliminary report submitted by investigating authority, imposes provisional antidumping measure. This measure may be applied no later than 60 days from the date of initiation of the investigation.

3. The rate of the provisional antidumping tariff shall not exceed the preliminary calculated dumping margin.

4. The provisional antidumping tariff shall be applied for the least possible period of time, not exceeding 4 months, or, by the decision of investigating authority, based on the request of those exporters representing the substantial share of trade, for the period of time not exceeding 6 months. During the investigation, when the investigating authority determines whether the tariff is lower than the margin of dumping or is it sufficient enough to eradicate the injury, the time period may be extended to 9 months.

5. The administration of provisional antidumping duty will be implemented by the Legal Entity of Public Law "Revenue Service", (hereinafter Revenue Service) according to the rules set by the Georgian Government. The paid amount of the provisional antidumping duty shall not be transferred in the state budget of Georgia until the decision on the imposition of definitive antidumping measure is taken.

6. In case the Government of Georgia imposes the definitive antidumping tariff, which is less than the provisional antidumping tariff, the exceedingly paid amount, according to the Georgian legislation, shall be reimbursed to the payer in 90 days and the rest of the amount shall be transferred to state budget of Georgia.

7. In case the Government of Georgia makes negative decision on imposition of antidumping measure, the paid amount in a way of provisional antidumping tariff, according to the Georgian legislation, shall be reimbursed to the payer in 90 days since the decision.

8. The provisional antidumping measure may also be imposed in a form of security – by cash deposit or guarantee, which shall be in line with the preliminary evaluated antidumping tariff and shall not exceed the preliminary assessed dumping margin.

Article 16

Price Undertakings

1. Investigation may be suspended or terminated without the imposition of provisional or definitive antidumping tariff if the exporter shall take voluntary undertaking (hereinafter "undertaking") in written to revise the prices set on the investigated product or to cease exports of investigated

product to the customs territory of Georgia at dumped prices and as a result of analysis of this undertaking the investigating authority determines, that it shall eliminate injurious effects caused by dumped import.

2. Regarding the undertaking in conformity with the provisions of the paragraph 1, price increases of the investigated product under such undertakings shall not be higher of dumping margin. The price increases may be less than the margin of dumping if such increases would be adequate to remove the injury to the domestic industry.

3. Price undertaking may be offered by the investigating authority, but no exporter shall be forced to enter into such undertaking. The circumstance that the exporters are not offered or enter into such undertaking does not in any case prejudice to consider such undertaking. The investigating authority by itself determines that the continuation of dumped import shall present the threat of injury.

Article 17

Price Undertakings Acceptance by Investigating Authority

1. The Government of Georgia shall not take a decision on price undertaking, in case if the investigating authority considers its establishment impractical, for instance, if the number of actual and potential exporters is great or due to other reasons hence the general policy conditions. If the investigating authority determines not to approve exporters' undertakings, it will give due notice to exporters on the reasons of undertakings being inappropriate. The exporters shall have an adequate opportunity to present written comments thereon.

2. The government of Georgia makes decision to approve the price undertaking based on preliminary report of the investigating authority.

3. Investigating authority notifies the exporters on the reasons of the negative decision on undertakings and gives them an adequate opportunity to react.

4. In case an exporter takes a price undertaking, the investigation may proceed based on the request of an exporter or on the decision of an investigating authority.

5. If, based on the report of the investigating authority, there is no dumping exporter is freed from the price undertaking, except for the case, when the negative decision on the existence of dumping is the result of such undertaking. In such circumstance, an investigating authority may request the continuation of the undertaking through the reasonable period of time pursuant to present Law.

6. Investigating authority can request the exporter an information on undertaking and verify its authenticity.

7. If an undertaking is violated by an exporter, in conformity with the provisions of the paragraph 1 of Article 16, the Government of Georgia take expeditious actions, which may constitute immediate application of provisional measures using the information available. In such cases, definitive antidumping tariff shall be imposed on product, which entered for consumption not more than 90 days before the application of such provisional antidumping measure, except imports entered before the violation of the undertaking.

Article 18

Imposition and Application of Definitive Antidumping measure

1. The Government of Georgia, based on the report of investigating authority, imposes the definitive antidumping tariff on the investigated product, which causes injury to the domestic industry.

2. The Government of Georgia based on the report of investigating authority imposes the definitive antidumping measure on each exporter or producer of the investigated product individually on the basis of non-discrimination, according to the rule established by Georgian legislation.

3. The investigating authority determines whether antidumping tariff (tariff rate) below the dumping margin is sufficient to eliminate the injury caused to domestic industry. In case the investigating authority determines that tariff (tariff rate) less than dumping margin would be adequate to remove the injury to the domestic industry, the definitive antidumping tariff (tariff rate) should not exceed this margin.

4. While making a decision about the application of definitive antidumping measure, along with the interests of domestic industry, public interest should also be taken into consideration.

5. The administration of the definitive antidumping tariff is carried out by the Revenue Service according to the rule defined by the Government of Georgia.

Article 19

Duration and Review of Definitive Antidumping Tariff

1. The application of the definitive antidumping tariff is carried out by the decision of the Government of Georgia in an amount and duration necessary to eliminate the injury caused by an investigated product to the domestic industry.

2. Definitive antidumping tariff shall be applied for no later than 5 years. This term shall count since the day of the application of this antidumping measure.

3. The term defined by the paragraph 2 of this Article may be extended for not more than 5 years, in case when after re-investigation the investigating authority determines that termination of definitive antidumping tariff will cause injury to domestic industry. In this case, the definitive antidumping tariff may remain in force until the completion of a re-investigation.

4. The investigating authority shall, no later than 90 days preceding the date of expiry of the tariff, publish an official notice of impending expiry of definitive antidumping measures.

5. After the publication an official notice, the domestic industry, within 45 days, can in written request investigating authority to start re-investigation.

6. The Government of Georgia, based on the report of investigating authority makes decision to extend the duration of the definitive antidumping tariff.

7. The period of reinvestigation shall not exceed 12 months.

8. In case if, as a result of reinvestigation it is determined that there is no basis for the imposition of the definitive antidumping tariff, the paid amount recovered from definitive antidumping tariff during the reinvestigation in line with the provision of paragraph 3 of this Article, shall be returned to initial payer in accordance with Georgia's legislation.

Chapter III. Conduct of Investigation

Article 20

Basis for Initiation and Conduct of Investigation

1. The basis to initiate an investigation shall be the written application made by or on behalf of the domestic industry.

2. The list of additional supporting documents of the application under the paragraph 1 of this Article shall be determined in accordance with the rule and procedures established by the Government of Georgia.

3. The investigation under paragraph 1 of this Article may be initiated only if the application has been submitted by or on behalf of the domestic industry whose collective output of the like product constitutes more than 50 percent of the total production of the domestic like product

produced and expressing either support for or opposition to the application. Nevertheless, initiation of an investigation is inadmissible, if the investigating authority based on the learnings of the insights from those supporting as well as opposing the application, determines that the portion of the domestic industry who supported the application collectively produces less than 25 percent of the like product than the total production of the domestic like product.

4. The investigating authority shall make a decision in connection with the initiation of an investigation of 45 calendar days from the date of submission of the application. This period may be extended for no more than 15 days in order to obtain additional information from the applicant by the investigating authority.

5. Investigating Authority, within 5 working days after the decision of refusal to launch an investigation, shall notify the applicant in writing of its reasons for refusing to initiate the investigation.

6. Investigating Authority, in case of decision to initiate an investigation, shall publish that information on its webpage. The date of publication shall be considered as the date of initiating the investigation. Investigating authority shall immediately notify the Governments of each exporting country on the initiation of an investigation.

7. In 30 calendar days after the start of the investigation, interested parties are entitled to apply in writing to investigating authority for participation in the investigation.

8. Investigating Authority conducts investigation in accordance with the rule and procedures set by the Government of Georgia.

9. Investigation period should not exceed 12 months. This period may be extended by no more than 6 months.

Article 21

Negligible Volume of Import and *de Minimis* Dumping Margin

Investigating Authority shall not initiate investigation or immediately terminate the investigation if, based on the provided information it has been determined that:

- a) Import capacity of investigated product in Georgia from any country is negligible - accounts less than 3 per cent of total import of investigated like product, except when the total share of these countries exceed 7 per cent of total imports of investigated like product;
- b) Dumping margin accounts less than 2 per cent.

Article 22

Confidential Information

1. Information provided by the interested party to the investigating authority shall be treated as confidential in case if the submitter substantiates that the disclosure of such information, in terms of competition, shall give advantage to the third party or shall be followed with negative consequences for the submitter or for the party which provided such information to the interested party. Confidential information shall not be disclosed without permission of the submitting interested party, except the circumstances defined under Georgian Legislation.

2. The investigating authority is entitled to request the non-confidential version of the confidential information provided by the interested party. Non-confidential version shall contain the information about the essence of confidential information provided. If the interested party, in reply to the request of non-confidential version of confidential information, indicates that such version cannot be provided, that party shall give reasons why such version cannot be provided.

Article 23

Non-application of Antidumping Measures

1. Government of Georgia is entitled to take the decision not to apply the antidumping measure in case if the introduction of such a measure would harm other sectors of the economy as a whole or in part, the interests of product consumers or due to the need of the country.
2. The decision on non-application of antidumping measures must be substantiated.
3. The decision on non-application of antidumping measures can be reviewed during one year, if the reason of its adoption has changed.
4. The Government of Georgia shall publish information regarding the non-application of antidumping measures.

Article 24

Appeal

1. The decision of the Government of Georgia on the application, non-application, review or termination of the provisional/definitive antidumping measure may be appealed to the Tbilisi Municipal Courtb in line with the rule established by Georgian Legislation.
2. The appeal of the decision of the Government of Georgia under paragraph 1 of this Article shall not suspend the effect of this decision.

Article 25

Notification to the WTO

Government of Georgia notifies the World Trade Organization Committee on AntiDumping measures in accordance with its rules about:

- a) Application of antidumping measures, initiated investigation and its procedures;
- b) All imposed provisional or definitive antidumping tariffs;
- c) Semi-annually submit report on antidumping measures applied during the last 6 months, in accordance with the standard form.

Chapter VI

Transitional and Final Provisions

Article 26

Transitional Provisions

The Government of Georgia, in 6 month since the entry into force of this Law, shall establish:

1. Rules and procedures to conduct the investigation for the application of antidumping measures in trade;
2. Decision-making procedures by Government of Georgia for the application of antidumping measures in trade;
3. Administrative rules for provisional and definitive antidumping tariffs.

Article 27

Entry into force

1. This law, except for the Article 20, shall enter into force since 1 January 2021.
2. Article 20 of the present Law shall enter into force since 1 June 2021.
