

# WORLD TRADE ORGANIZATION

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## NOTIFICATION OF LAWS AND REGULATIONS UNDER ARTICLES 18.5 AND 32.6 OF THE AGREEMENTS

POLAND

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### TABLE OF CONTENTS

|  | <u>Page</u> |
|--|-------------|
| Law of 11 December 1997 on the protection against importing goods into the Polish customs territory at dumping prices..... | 2           |
| <b>PART I</b> General provisions .....   | 2           |
| <b>PART II</b> Determination of dumping and injury .....   | 4           |
| Chapter 1 - Determination of dumping .....   | 4           |
| Section 1- Normal value .....  | 4           |
| Section 2 - Export price .....   | 7           |
| Section 3 - Comparison between the export price and the normal value .....   | 8           |
| Section 4 - Dumping margin .....   | 9           |
| Chapter 2 - Determination of the injury .....  | 10          |
| <b>PART III</b> Anti-dumping procedures.....   | 12          |
| Chapter 1 - Initiation of anti-dumping procedures .....  | 12          |
| Chapter 2- Provisional measures.....   | 17          |
| Chapter 3 - Price undertakings .....   | 17          |
| Chapter 4 - Completion of anti-dumping procedures .....  | 19          |
| Section 1 - General provisions .....   | 19          |
| Section 2 - Final anti-dumping duties .....  | 20          |
| Section 3 - Collection of anti-dumping duties.....   | 21          |

Page

|                 |   |           |
|-----------------|---|-----------|
| <b>PART IV</b>  | <b>Procedures in cases connected with avoiding anti-dumping duties.....</b> | <b>22</b> |
| <b>PART V</b>   | <b>Review, verification, and revision procedures.....</b>                   | <b>23</b> |
|                 | <b>Rules of reimbursing anti-dumping duties .....</b>                       | <b>23</b> |
| <b>PART VI</b>  | <b>Confidentiality guarantee .....</b>                                      | <b>27</b> |
| <b>PART VII</b> | <b>Provisional and final regulations .....</b>                              | <b>28</b> |

*The translation refers to paragraph No. 1028, published in "The Journal of Laws of the Republic of Poland" (Dziennik Ustaw- Dz.U.) of 23 December 1997, No. 157, item 1028, pages 5092-5105.*

**LAW**  
**of 11 December 1997**  
**on the protection against importing goods into the Polish**  
**customs territory at dumping prices**

**PART I**  
**General provisions**

Article 1

1. The Law specifies protection measures against the import of goods into the Polish customs territory at dumping prices causing an injury to the domestic industry, hereinafter called "anti-dumping measures", as well as rules and modes of procedures in cases of applying these measures, hereinafter called "Anti-dumping procedures".
2. Anti-dumping measures and anti-dumping procedures, specified in the present Law, shall be applied with the observation of requirements determined in the World Trade Organisation Agreement on Implementation of Article IV of the General Agreement on Tariffs and Trade 1994.
3. Provisions of the Administrative Procedures Code and regulations about execution procedures in administration shall be applied in anti-dumping procedures, unless provisions of the present Law provide otherwise.

Article 2

The terms used in the present Law shall bear the following meanings:

- (1) like goods - goods which are equal in all aspects to goods subjected to anti-dumping procedures, or in the case of a lack of such goods, other goods which have features closely resembling features of goods covered by the said anti-dumping procedures, in spite of the fact that they are not equal in all respects;

(2) injury - a material injury done to the domestic industry or a threat to cause such a material injury, or a material retardation in the establishment of a certain domestic industry;

(3) the domestic industry - all producers manufacturing like goods within the territory of the Republic of Poland or these producers whose total production constitutes at least 50 per cent of the total national production of these goods: in the case when the producers are connected with foreign exporters or domestic importers, or are importers of the goods subject to the procedures themselves, the domestic industry shall mean other domestic producers manufacturing similar goods,

(4) related producers - producers related with foreign exporters or domestic importers in any of the following ways:

- (a) one of them directly or indirectly controls the other;
- (b) both of them are directly or indirectly controlled by a third person;
- (c) both of them directly or indirectly control a third person, on the condition that there are assumptions that due to the said relations, the given producer behaves in a different way than other producers, not possessing such relations, behave;

(5) a person controlling another person - the person who legally or actually is authorised to direct activities of another person;

(6) independent persons (independent purchasers) - persons (purchasers) who are not related with one another in a way specified in paragraph 4;

(7) sales within an ordinary course of trade - every sale effected by the producer of the goods covered by anti-dumping procedures on conditions generally accepted for one country, except for sales at prices lower than production costs according to Article 5, paragraphs 2-11, sales between related persons according to Article 4, as well as sales between parties who have concluded a compensation agreement between them;

(8) anti-dumping measures - temporary and final anti-dumping duties and price undertakings; temporary anti-dumping duties and final anti-dumping duties that constitute customs importation receivables according to provisions of the Law of 9 January 1997, the Customs Law;

(9) parties concerned:

- (a) foreign exporters or producers of goods covered by anti-dumping procedures, domestic importers of these goods, or organisations and commercial and entrepreneurial associations if the majority of their members are foreign exporters, producers or domestic importers of the given goods;
- (b) exporting countries;
- (c) domestic producers of similar goods or commercial or entrepreneurial organisations and associations of traders and entrepreneurs if the majority of their members manufacture similar goods;
- (d) other parties, domestic or foreign, not mentioned in subparagraphs a-c, who will prove their direct legal and material interest in the given case during anti-dumping procedures;

(10) examined period - the period when it is investigated whether the importation into the Polish customs territory has been effected at dumping prices, but the period is usually 1-year-long, and not less than 6-month-long before the date of instituting anti-dumping procedures, specified in details in the decision about instituting anti-dumping procedures.

### Article 3

1. In the case when as a result of applying anti-dumping procedures it is concluded that the introduction of goods into the Polish customs territory at dumping prices causes an injury to the domestic industry, anti-dumping measures may be applied against such goods.
2. The goods shall be considered to be introduced into the circulation within the Polish customs territory at dumping prices if its export price is lower than the normal value.
3. Anti-dumping duties shall be imposed at the level necessary to remove the injury, but not exceeding the dumping margin.
4. In price undertakings in price increases should be calculated at the level sufficient to eliminate the dumping or prevent the injury, but not more than the established dumping margin.
5. The dumping margin shall constitute the sum by which the ordinary value exceeds the export price.

## **PART II**

### **Determination of dumping and injury**

#### **Chapter 1**

#### **Determination of dumping**

##### **Section 1**

##### **Normal value**

### Article 4

1. The normal value is determined on the basis of prices actually paid or due in an ordinary course of trade from non-related purchasers in the exporting country.
2. The exporting country is a country of origin of the goods, and in the case when the goods are not brought into the Polish customs territory directly from the country of origin of the goods, it is the country of shipment. When the country of shipment does not produce like goods or when it is impossible to determine a comparable price, or when the goods are only in transit through its territory, the exporting country is considered the country of origin.
3. In the case when a foreign exporter does not produce or sell like goods within an ordinary course of trade in the exporting country, the normal value can be determined on the basis of prices applied in the exporting country by other sellers or producers.
4. Prices applied between non-related parties or have concluded a compensation agreement, cannot be considered paid within an ordinary course of trade and they cannot be used to determine the

normal value, unless it is proven that the relation does not exercise an impact upon prices applied between these parties.

5. Sales of similar goods for the domestic consumption in the domestic market of the exporting country are used for determining the normal value if they constitute at least 5 per cent of the volume of sales of the given goods into the Polish customs territory. Sales in smaller quantities may be used for determining the normal value if the applied prices are considered to be representative for the given market.

#### Article 5

1. In the case when like goods are not sold within the ordinary course of trade or if they are sold in insufficient quantities or if due to a concrete market situation, the sales do not allow a proper comparison, the ordinary value of like goods shall be determined on the basis of:

(1) prices in the exportation, in the ordinary course of trade, to a third country if these prices are representative or

(2) costs of production in the country of origin of the goods, plus costs directly connected with the sales, general costs, and all other costs and the sum of the profit (the normal constructed value).

2. In the case when sales of similar goods in the domestic market of the exporting country or their sales to a third country take place at prices below per unit costs of production (fixed and variable), plus costs directly connected with the sales, general costs, and all other costs, they may be treated as not effected in the ordinary course of trade by reason of price and they may be disregarded when determining the normal value only in the case of concluding that such sales are effected:

(1) within an extended period of time in substantial quantities and

(2) at prices which do not provide for a recovery of costs within a reasonable period of time.

3. If prices of like goods in the internal market of the exporting country or in their sales to a third country are lower than costs mentioned in paragraph 2, but in the moment of the sale they exceed average weighed costs for the period of investigation, such prices are considered to guarantee a full recovery of costs within a reasonable period of time.

4. The extended period of time is usually considered to be one year, but no case less than 6 months, while sales at prices lower than costs mentioned in paragraph 2 are considered to be realised in substantial amount in this period if it is concluded that:

(1) the average weighed sales price is lower than the average weighed costs specified in paragraph 2 or

(2) the volume of sales below costs mentioned in paragraph 2 is not smaller than 20 per cent of the sales used for determining the normal value.

5. Costs mentioned in paragraph 2 shall be calculated on the basis of records of the unit kept according to rules resulting from the documentation possessed by the unit and describing accountancy rules adopted by it, on the condition that entries in the books properly document costs associated with the production and sale of the product under consideration. The presented evidence on the proper

allocation of costs shall be taken into account on the condition that it is confirmed that such allocations have been effectively utilised.

6. When it is impossible to apply the method of costs allocation used by the unit subjected to the procedures, there shall be applied the method of costs allocation proportionately to the turnover.

7. Costs mentioned in paragraphs 5 and 6 shall be corrected by additional amounts related to the future or present production of the examined goods which have not been taken into consideration in calculations specified in paragraphs 5 and 6.

8. In the case when costs appearing during a part of the period of the cost recovery are influenced by the utilisation of new production equipment requiring a substantial investment outlay, as well as a low level of the production capacity utilisation, which accompany start-up operations that have taken place during the examined period, average costs for the start-up phase are determined at the level of costs appearing at the end of the period and they are included in average weighed costs for this period as mentioned in paragraph 3.

9. The period of the start-up phase is determined with respect to conditions of the given foreign exporter or producer, but it cannot exceed an appropriate initial part of the cost recovery period. The information proving a prolongation of the start-up period beyond this part of the period shall be taken into consideration on the condition that they have been supplied within 3 months after the date of instituting procedures.

10. The level of costs related to sales, general costs, and all other costs, as well as amounts of profit are determined on the basis of actual data, proper for the production and sales of similar goods of a foreign exporter or producer subjected to anti-dumping procedures within an ordinary course of trade.

11. In the case when it is impossible to determine the level of costs mentioned in paragraph 10 according to the method specified in paragraph 10, the costs shall be determined on the basis of:

(1) a weighed average of actual amounts determined for other foreign exporters or producers subjected to anti-dumping procedures within the production and sales of like goods in the domestic market in the country of origin;

(2) actual amounts in the field of the production and sales, in the ordinary course of trade, of goods belonging to the same category which similar goods belong to, covered by the given foreign exporter or producer subjected to anti-dumping procedures in the domestic market in the country of origin;

(3) any other reasonable method provided that the margin of profit so established during its application does not exceed the profit normally realised by other foreign exporters or producers of goods of the same category in the domestic market of the country of origin.

## Article 6

1. In the case of importing goods from countries not possessing the market economy, the normal value is determined on the basis of the price applied in a third country of a market economy or on the basis of the export price from such a country to other countries, including the Republic of Poland, or on the basis of the value constructed in conditions of a market economy of a third country, and in the case it proves to be impossible, on the basis of another justified method, including the price actually

paid or due within the Polish customs territory for similar goods, appropriately modified depending on the needs, so that it could take into consideration an appropriate margin of profit.

2. A selection of a third country mentioned in paragraph 1 shall be made on the basis of an information about production conditions of a similar product in this country, including conditions of the production process and scale of output of like goods, as well as with the consideration of all available information about market conditions existing in this country during the examined period and after comparing them with conditions in the country subjected to anti-dumping procedures. A selection of the third country shall be made with the consideration of deadlines provided for in the present Law. If it is possible, the selection shall be made from among countries of a market economy covered by the same anti-dumping procedures.

3. The Minister of Economy shall inform foreign exporters and domestic importers, as well as their organisations and associations, authorities of the exporting country, the applicant or applicants about the selection of the third market economy country mentioned in paragraph 1, immediately after instituting anti-dumping procedures, and he shall set out a deadline of 10 days for submitting remarks about the said selection.

## **Section 2**

### **Export price**

#### Article 7

The export price of the goods is considered to be the price actually paid or due for the goods from the exporting country in the case of bringing them into the Polish customs territory.

#### Article 8

1. In the case when there is no export price or when it is concluded that the export price is unreliable because of an association or a compensatory agreement between the foreign exporter and the domestic importer or a third party, the export price may be determined on the basis of a price at which the imported goods are first resold to an independent buyer, and in the case when they are not resold to any non-related purchaser, or if the products are not resold in the condition as imported, on another reasonable basis (the constructed export price).

2. In cases mentioned in paragraph 1 and for the purpose of determining a reliable export price, a correction of the constructed export price is made, taking into consideration all costs including customs dues and taxes, incurred between the importation and the resale, as well as profits.

3. Corrections of the price mentioned in paragraph 2 should include ordinary costs covered by a domestic importer, paid by any party within the Polish customs territory or outside it which is related or has a compensation agreement concluded with the domestic importer or foreign exporter, including ordinary transportation costs, insurance, reloading, loading, and additional costs, customs duties, anti-dumping duties, as well as taxes due because of the importation or sale of goods, and a justified sale margin, general costs, all other costs, and the profit.

### **Section 3**

#### **Comparison between the export price and the normal value**

##### Article 9

1. The determination of the dumping margin mentioned in Article 3, paragraph 5, shall be made by measures of comparing the export price with the normal value.
2. The comparison of the export price with the normal value is made at the same level of the trade, normally at ex factory level and in respect of sales made as nearly as possible at the same time, and with due allowance to differences affecting the price comparability.

##### Article 10

1. If there is no basis to compare the determined normal value and the export price, appropriate adjustments are introduced in the form of a correction on the basis of substantial premises resulting from differences between factors that have been reported and can influence the prices and their comparability.
2. The correction mentioned in paragraph 1 should especially take into consideration the following factors:
  - (1) physical properties of the goods subjected to anti-dumping procedures and similar goods, but the scope of the correction should correspond to the appropriate evaluation of the difference in the market value resulting from physical differences;
  - (2) importation liabilities and indirect taxes; in such a case there is made a correction of the normal value by a sum corresponding to all importation liabilities and indirect taxes on similar goods and their physical components which the goods are subject to in the case of directing them for consumption in the exporting country, and not collected or refundable in connection with the importation into the Polish customs territory;
  - (3) discounts and the volume of sales; in this case there is made a correction due to differences in volumes of the discounts, including those granted in connection with the volume of sales if these dependant volumes are correctly specified and directly connected with sales subjected to anti-dumping procedures; the correction can be also made due to deferred discounts provided that the claim is based in the practice determined in previous periods, including in the dependence upon the fulfilment of conditions necessary for granting the discount;
  - (4) the level of the turnover; corrections due to differences in levels of the turnover, including those due to all differences that may occur in the case of goods examined on OEM rules (with the acceptance of some producer's duties by the purchaser) shall be effected if it is proven that the export price, including the constructed export price in the distribution network in both markets occurs in a different level of the turnover than the normal value, while the difference influences the comparability of prices, which is reflected in permanent and significant differences in the functions and prices within various levels of the turnover in the domestic market of the exporting country. The sum of the correction should be based on the market value of the respective differences;
  - (5) transportation, insurance, reloading, loading and additional costs; the corrections are made on the basis of differences in costs directly connected with these operations and covered due to supplying goods from premises of the foreign exporter to an independent purchaser, if these costs are taken into consideration in the collected prices;



(6) packaging; the corrections shall be made on the basis of differences in costs directly connected with the packaging of the given goods;

(7) credit; the corrections shall be made on the basis of differences in costs of credits granted for effecting the given sale, if this factor is taken into consideration when determining prices;

(8) costs covered after the sale; the correction shall be made on the basis of differences in direct costs of granting the warranty, guarantee, technical assistance, and service, according to legal regulations or provisions of the sales agreement;

(9) commissions; the correction shall be made on the basis of differences in commissions calculated for every sale;

(10) conversion of currencies; if for the purpose of comparing prices it is necessary to convert the currency, it shall be made using the rate of exchange on the day of sale; if a sale of a foreign currency in the futures market is directly connected with the export sale, the rate of exchange of the currency as in futures sales will be used. The date of the sale is the date of invoice or the date of contract, purchase order, or order confirmation, if these documents determine important terms of sale in a better way. Fluctuations in exchange rates shall be ignored. Foreign exporters may adjust their export prices to reflect substantial movements of exchange rates during the period of investigation within 60 days.

3. Another correction due to the same factors, especially due to differences in terms and volume of sales and due to differences in the levels of the turnover shall not be made.

#### **Section 4**

#### **Dumping margin**

##### Article 11

1. The dumping margin within the period of investigation shall be determined according to one of the following methods:

(1) on the basis of a comparison of the weighed average of the normal value with the weighed average of prices of all export transactions within the importation of goods into the Polish customs territory or

(2) on the basis of a comparison of normal values specified for individual transactions with prices of every export transaction within the importation of goods into the Polish customs territory.

2. The normal value in the form of a weighed average can be compared with prices of all export transactions within the importation of goods into the Polish customs territory provided that the level of export prices considerably differs depending on the purchaser, region or period, and the application of the aforementioned methods does not allow to reflect fully the scope of dumping practices.

3. Provisions of paragraphs 1 and 2 do not exclude the application of the method of a random control mentioned in Article 26, paragraphs 2 and 4.

## Article 12

The average weighted dumping margin can be determined in the case of the occurring of various dumping margins.

## **Chapter 2** **Determination of the injury**

## Article 13

1. The real injury shall be determined on the basis of the collected evidence after evaluating:
  - (1) the volume of the dumped imports into the Polish customs territory and their effect on prices of like goods in the domestic market and
  - (2) the consequent impact of these imports on domestic industry.
2. The volume of the dumped imports shall be determined with the consideration of circumstances whether the said imports increased in a significant way in absolute terms or relative to production or consumption in the Polish customs territory.
3. In order to determine the effect of the dumped imports on prices of like goods in the domestic market there shall be examined:
  - (1) prices of these goods are much lower than prices of like goods manufactured by the domestic industry or
  - (2) whether the dumped imports are undercutting prices of goods made by domestic producers in any other way, or whether they do not prevent price increases which otherwise would have occurred to a significant degree.

## Article 14

Where imports of goods from more than one country into the Polish customs territory are subject to anti-dumping investigation, the effects of such imports shall be assessed cumulatively provided that:

- (1) the margin of dumping established in relation to imports from each country is more than the minimum level as defined in Article 35, paragraph 1, and the volume of imports from each country is not negligible according to Article 21, paragraph 1.1;
- (2) the cumulative assessment of the effects of the imports is appropriate in the light of conditions of competition between the goods brought into the Polish customs territory and conditions of the competition between the imported goods and like domestic goods.

## Article 15

The impact of dumped imports on the domestic industry shall be examined with the consideration of all relevant economic factors and indices having a bearing on the state of industry, and especially:

- (1) a duration of the process of overcoming difficulties caused by the dumped imports into the Polish customs territory in the past by the domestic industry;

- (2) the magnitude of the margin of dumping;
- (3) actual and potential reduction in sales, profits, output, market share, productivity, return on investments and utilisation of capacity;
- (4) factors affecting domestic prices;
- (5) actual or potential negative effects on cash flows;
- (6) inventories;
- (7) employment;
- (8) wages;
- (9) development of the industry;
- (10) ability to raise capital and investments.

#### Article 16

1. In the case when, apart from the dumped imports, there are also other factors causing an injury to the domestic industry, they shall be subjected to the examination in order to exclude the possibility that the injury done by these factors has been attributed to the dumped imports.

2. The examinations mentioned in paragraph 1 should especially cover:

- (1) the volume and prices of the imports not sold at dumping prices;
- (2) contraction of demand for like goods;
- (3) changes in the consumption pattern;
- (4) monopolistic practices;
- (5) developments in technology;
- (6) changes in exportation and productivity of the domestic industry.

3. Effects of the dumped imports upon the domestic production of like goods, which can be separately identified, shall be evaluated on the basis of factors including: the production process, turnover and profits of producers. If such separate identification of that production is not possible, effects of the dumped imports shall be assessed by the examination of production of the most similar group or range of goods which includes the like goods, for which the necessary information can be provided.

#### Article 17

A determination that the dumped imports prices cause an injury to the domestic industry according to the present Law shall be based on all factors and elements mentioned in Articles 15 and 16, paragraph 2 in connection with Articles 13-14.

### Article 18

1. A threat of a material injury to the domestic industry shall be based on facts, with the reservation of paragraph 2.

2. A change in the circumstances which could create a situation in which the dumping could cause an injury must be clearly foreseen and imminent.

3. In making a determination regarding the existence of a threat of a material injury to the domestic industry it is necessary to consider whether there have occurred especially these situations:

(1) an increase of the dumped imports to the Polish customs territory indicating the likelihood of a further considerable increase of imports;

(2) the fact that the exporter possesses significant reserves of his production capacities, or an important increase of his production capacities is imminent, making a considerable further increase of the dumped imports to the Polish customs territory more probable, with the consideration of the availability of other export markets which could absorb the additional importation;

(3) possibilities of an importation into the Polish customs territory of goods at prices that could considerably lower the prices in the domestic market or prevent their increase which would take place otherwise, increasing the probability of a further increase in the demand for further imports;

(4) inventories.

### Article 19

If on the basis of circumstances mentioned in Article 18, paragraph 3, considered in total, it can be determined that further dumped imports are unavoidable unless protective action is taken, material injury to the domestic industry would occur, such a determination constitutes a sufficient basis for formulating precise forecasts about the occurrence of such an injury even if the above mentioned circumstances prove to be insufficient to formulate such predictions when considered separately.

## **PART III** **Anti-dumping procedures**

### **Chapter 1** **Initiation of anti-dumping procedures**

### Article 20

1. The Minister of Economy shall initiate anti-dumping procedures:

(1) at a written request of a natural or legal person, or an organisational unit not possessing the corporate power, acting in the name and for the benefit of the domestic industry;

(2) *ex officio* in special circumstances when there exist evidence of the dumping, injury and their causal relation.

2. The request shall be considered to be submitted, according to paragraph 1.1, if it is supported by domestic producers whose total production constitutes at least 50 per cent of the whole domestic production of like goods by these domestic producers who have expressed their support or objection against the request with the reservation of paragraph 3.

3. Anti-dumping procedures shall not be initiated if domestic producers of like goods who univocally support the request account for less than 25 per cent of the whole production of like goods.

4. The Minister of Economy shall determine the application form to initiate anti-dumping procedures in a regulation.

5. In the case when the application does not meet requirements specified according to paragraph 4, or the evidence proves to be insufficient, within 15 days after the submission of the application, the Minister of Economy shall inform the applicant about it and request him to remove the shortcomings within a period of time not shorter than 30 days after the request date. If the shortcomings are not removed within the imposed deadline, the Minister of Economy shall leave the application without considering it.

6. The applicant can withdraw the application before the decision about initiating anti-dumping procedures is made. If however, the applicant withdraws the application after the procedures are already initiated, the Minister of Economy shall discontinue the procedures, unless it could violate the interest of the state.

#### Article 21

1. The Minister of Economy shall take a decision about refusing to initiate anti-dumping procedures:

(1) towards a subject from a country or countries from which the importation of goods covered by anti-dumping procedures into the Polish customs territory is insignificant, i.e. lower than 1 per cent of the domestic production of the goods, unless the total importation from such countries constituted three or more per cent of the said consumption;

(2) in the case when evidence that the importation is realised at dumping prices and the injury caused by it, which shall justify the institution of anti-dumping procedures, are not sufficient.

2. Before taking the decision about initiating anti-dumping procedures, no information about this case shall be made public. If it results from international agreements that there is an obligation to inform authorities of the exporting country about the intention to initiate anti-dumping procedures, the Minister of Economy shall inform respective countries about such an intention.

3. After concluding that the evidence and other available information justify the presumption about dumped imports and an injury caused by such imports, and after a previous consultation of the President of the Competition and Consumers' Protection Office, the Minister of Economy shall make a decision about instituting anti-dumping procedures not later than within 45 days after the date the complete application to initiate anti-dumping procedures is received. The said decision shall be published in "Monitor Polski" Official Journal of the Republic of Poland.

4. The decision mentioned in paragraph 3 shall also contain a summary of collected information and it shall determine:

(1) the date of initiating anti-dumping procedures;

- (2) goods anti-dumping procedures shall refer to;
- (3) the exporting country or countries;
- (4) the examined period;
- (5) deadlines for submitting information and opinions by parties concerned in cases important to anti-dumping procedures;
- (6) deadlines for submitting requests to present oral explanations by parties concerned.

#### Article 22

1. Irrespectively of the announcement mentioned in Article 21, paragraph 3, the Minister of Economy shall inform the foreign exporter about instituting anti-dumping procedures to foreign exporters, domestic importers, as well as organisations and associations of domestic importers or foreign exporters of goods, which according to information possessed by the Minister of Economy, the initiated procedures refer to, as well as authorities of the exporting country or the country of origin of the goods, and the applicant or applicants.
2. The Minister of Economy shall observe confidentiality requirements in presenting the whole text of the application to foreign exporters and authorities of the exporting country or countries as well. In the case when the number of foreign exporters is particularly high, the full text of the request shall be presented only to authorities of the exporting country or a proper organisation or association of the exporters.
3. The Minister of Economy shall make available the whole text of the request to other parties concerned at their written request and with the observation of the confidentiality requirement.

#### Article 23

1. The Minister of Economy shall present a questionnaire on anti-dumping procedures to parties concerned.
2. Questions included in the questionnaire mentioned in paragraph 1 shall be answered by the parties concerned within a period of time not shorter than 30 days, but for foreign exporters and producers, the deadline shall be calculated after 7 days following the day when the questionnaire has been sent to the exporter or delivered to a proper diplomatic mission of the country exporting the goods.
3. Deadlines mentioned in paragraph 2 may be prolonged by another period up to 30 days if the party concerned presents important reasons essential for the party undergoing procedures the deadline for whom should be prolonged.
4. The Minister of the Economy shall determine the form of the questionnaire mentioned in paragraph 1 in a regulation.

#### Article 24

1. All parties concerned shall have a full possibility to protect their interests during the procedures.

2. All information connected with anti-dumping procedures and not reserved as confidential shall be made available to them at their written request.
3. Parties shall be entitled to present their opinion about all information referring to the case in a written form, and if the Minister of Economy agrees, in an oral form as well.
4. All persons concerned shall be made available direct and mutual consultations at the request mentioned in Article 21, paragraph 4.6 and with the observation of confidentiality requirements.
5. No party shall be obliged to participate in consultations mentioned in paragraph 4. Information presented orally during consultations shall be taken into consideration only if they are confirmed in writing.

#### Article 25

1. The Minister of Economy may request parties concerned to supply all information and opinions he shall consider to be necessary for the benefit of the conducted procedures.
2. In the case when the party concerned refuses to supply the information mentioned in paragraph 1 or grossly makes anti-dumping procedures more difficult in any other way, all decisions can be taken on the grounds of other available information.
3. In the case when the party concerned has presented false or misleading information, such information shall not be taken into consideration, and other available data shall be used in the procedures.
4. The party mentioned in paragraphs 2 and 3 shall be informed about consequences of a lack of co-operation.
5. In the case when the party concerned supplies doubtful information, it shall be taken into consideration if it does not result in unnecessary difficulties in determining facts, as well as when they are supplied properly and on time, possible to be verified, and the party concerned does all its best to prepare them.
6. In the case when the information supplied by the party are not accepted by the Minister of Economy by measures of a regulation as evidence, the decision should be immediately presented to the party and its reasons shall be included.
7. In the case of a decision mentioned in paragraph 6, the party shall be ensured a possibility to offer explanations within a certain period of time.
8. If explanations mentioned in paragraph 7 prove to be unsatisfactory, reasons why certain information has not been accepted as evidence shall be revealed and the party shall be informed about them.
9. In the case when decisions, especially those referring to the normal value of the goods, have been made on the basis of information contained in the questionnaire on anti-dumping procedures, they shall be checked together with the information supplied by the applicant, with the consideration of dates of the procedures, by measures of comparing it with information coming from other independent sources, including published price-lists, governmental statistical data referring to the importation of goods into the Polish customs territory, or information obtained during the procedures.

10. It is permitted to supply answers in the form of an electronic record and message in procedures mentioned in paragraph 1. The fact of not supplying the answer in the form of an electronic record shall not entail a lack of a co-operation if the party concerned proves that the presentation of the required answer in such a form shall be an additional, unjustified burden or it shall generate additional costs.

#### Article 26

1. In order to verify the received information and materials, the Minister of Economy may carry out a necessary control of the documentation submitted by domestic importers, traders, and producers and also by foreign exporters and producers when the foreign parties concerned agree, and authorities of the given country have been duly informed about it and they did not object it.

2. In the case of a big number of applicants, foreign exporters or domestic importers, of types of products covered by anti-dumping procedures, or of transactions, the Minister of Economy may make a decision about limiting the examination to representatives selected within a statistical sample or to a representative possessing the biggest share of production, sale or exportation (random control).

3. In the case when at least some of the selected parties do not supply the necessary information after the decision to conduct a random control, these parties shall be replaced by other representatives.

4. In the case of applying a random control, individual dumping margins shall be determined for every foreign exporter or producer, who has met the requirements provided for by Article 23, paragraphs 2 and 3, but not selected to be a representative, unless the number of foreign exporters or producers is so big that it makes a timely completion of the procedures impossible.

#### Article 27

1. Anti-dumping procedures cannot hinder procedures connected with subjecting the goods to an appropriate customs procedure.

2. After concluding that circumstances indicate that the goods are dumped causing an injury to the domestic industry, the Minister of Economy may approach the President of the Central Board of Customs with a request that the customs authorities registered the goods covered by anti-dumping procedures and brought into the Polish customs territory.

3. The Minister of Finance, acting in consultation with the Minister of Economy, shall determine the following in a regulation:

(1) the method of keeping the register of goods for the purpose of anti-dumping procedures by customs authorities;

(2) data that shall be included in the register kept for the purpose of anti-dumping procedures;

(3) types of documents on the grounds of which entries in the register for the purpose of anti-dumping procedures can be made.

4. The register mentioned in paragraph 3 shall be kept for a period not exceeding 9 months, and in the case of agricultural products, for a period not exceeding 12 months after the date of introducing it.



## **Chapter 2**

### **Provisional measures**

#### **Article 28**

1. In the case when as a result of initial findings of anti-dumping procedures, it is concluded that an importation of goods at dumping prices causing a injury has taken place, the Minister of Economy after consulting the President of the Competition and Consumers' Protection Office should make a decision imposing provisional anti-dumping duties, which shall be published in the "Monitor Polski" Official Journal of the Republic of Poland and immediately presented to parties concerned.

2. The decision shall determine in detail the goods, the foreign exporter or exporters, the exporting country or countries, the level of provisional anti-dumping duties, as well as the method, conditions, and scope of their implementation.

3. In the case of establishing provisional anti-dumping duties, a security in the amount determined at the level equal to the sum of receivables due to the provisional anti-dumping duties calculated on the basis of the imposed provisional anti-dumping duty rates, shall be a condition to accept the goods covered by such duties to be admitted for turnover in the Polish customs territory. Provisions of the Customs Code shall be applied in the case of procedures referring to the security.

4. Provisional anti-dumping duties shall be imposed not earlier than after 60 days after the date of initiating anti-dumping procedures and not later than within 9 months after this date.

5. Provisional anti-dumping duties shall be imposed for a period of 6 months. This period can be prolonged by another 3 months, or the duties can be imposed for 9 months at once, if foreign exporters representing a considerable share of the trade covered by anti-dumping procedures put forward such a request, or do not object against it in their answer to the notification mentioned in paragraph 6.

6. Before making the decision on prolonging the period of applying temporary anti-dumping customs charges by 3 months more or about imposing them for 9 months at once, the Minister of Economy shall inform foreign exporters mentioned in paragraph 5 about the intention and he shall enable them to present their opinion.

## **Chapter 3**

### **Price undertakings**

#### **Article 29**

1. During the period starting from the date of making a decision about initiating anti-dumping procedures, and not later than till the moment of determining final anti-dumping duties, the foreign exporter may put forward an initiative to undertake an obligation to change the prices or stop the process of dumping into the Polish customs territory (the so-called "price undertakings").

2. The Minister of Economy can apply to the foreign exporter for a price undertaking and the foreign exporter may accept or reject it.

3. The request for such a price undertaking or an acceptance of such an undertaking cannot take place before a provisional determination that the goods covered by anti-dumping procedures have been dumped into the Polish customs territory and that such an importation causes an injury.

#### Article 30

1. The party presenting its initiative concerning a price undertaking shall prepare the text of the obligation not containing information of a confidential character in order to make it available to other parties concerned.

2. By means of a decision, the Minister of Economy may accept the price undertaking of the party mentioned in Article 29, paragraphs 1 and 3, and he shall discontinue the procedures in such a case, with the reservation of Article 31, paragraph 1.

3. The decision mentioned in paragraph 2 shall specify the foreign exporter or exporters, or the exporting country or countries. The decision shall be published in "Monitor Polski" Official Journal of the Republic of Poland and presented to parties concerned.

4. In the case when the state sector has a dominant role in the trade or determination of the price of goods, which anti-dumping procedures refer to, in the exporting country, authorities of this country may offer a price undertaking on behalf of all foreign exporters. Provisions of paragraphs 2 and 3 shall be applied in such cases.

5. The Minister of Economy may not accept a price undertaking offered by a foreign exporter or the government of the state mentioned in paragraph 4 above.

6. The foreign exporter or authorities of the country whose initiative to undertake the price obligation has not been accepted, shall be informed about reasons of the rejection and a possibility to express their opinion in this case. Reasons of not accepting the price obligation shall be presented in a final decision that shall be announced in the Official Journal of the Minister of Economy.

7. The party which made the price obligation shall be obliged to present to the Minister of Economy all information necessary to evaluate the realisation of the price obligation accepted by the party within deadline specified in the decision mentioned in paragraph 2. The fact of not fulfilling this obligation shall constitute a violation of the price undertaking.

#### Article 31

1. In the case of accepting a price undertaking, the termination of anti-dumping procedures shall take place after determining final provisions referring to the importation of the dumped goods into the Polish customs territory and causing an injury.

2. The price undertaking shall cease to be valid if it is confirmed that the goods have not been dumped into the Polish customs territory, or that the importation has not caused any injury, unless such circumstances have largely depended on the application of the price undertaking; in such a case, the Minister of Economy shall inform the foreign exporter about the need to apply the price undertaking further.

3. In the case when the party or parties do not adhere to accepted price undertakings or the said parties or the Minister of Economy cease to apply them due to any reason, the Minister of Economy shall impose a final anti-dumping duty according to Articles 36-38.

4. In the case when circumstances mentioned in paragraph 3 have occurred before final findings mentioned in paragraph 1 above, the Minister of Economy may impose a provisional anti-dumping duty according to Article 28.

## **Chapter 4**

### **Completion of anti-dumping procedures**

#### **Section 1**

#### **General provisions**

##### Article 32

1. Anti-dumping procedures should be completed within 12 months, and in special situation, not later than within 18 months after the date of instituting them, by measures of a decision about imposing a final anti-dumping duty, an acceptance of a price undertaking, or a discontinuation of the procedures, or their suspension

2. The decision mentioned in paragraph 1 shall be announced in "Monitor Polski" Official Journal of the Republic of Poland.

##### Article 23

1. In the case when it has been concluded on the grounds of the collected evidence that the goods are dumped in the Polish customs territory and that the said importation causes an injury, the Minister of Economy determines the final anti-dumping duty by means of a regulation after a previous consultation with the President of the Competition and Consumers' Protection Office.

2. The justification of the decision mentioned in paragraph 1 shall include evidence collected during the procedures according to requirements of the WTO Agreement.

3. The decision mentioned in paragraph 1 with its justification mentioned in paragraph 2 shall be notified to the Committee on Anti-Dumping Practices of the World Trade Organisation (WTO) and presented to parties concerned.

##### Article 34

By means of a regulation, the Minister of Economy shall discontinue anti-dumping procedures:

(1) against a country the importation from which into the Polish customs territory has been considered to be small according to Article 21, paragraph 1.1 on the grounds of the collected evidence;

(2) in cases specified in Article 20, paragraph 6;

(3) in the case when on the grounds of the collected evidence it cannot be confirmed that:

(a) there takes place an importation of goods covered by anti-dumping procedures at dumping prices into the Polish customs territory or

(b) the dumped imports of goods into the Polish customs territory cause a material injury to the domestic industry.

### Article 35

1. In the case of concluding that the dumping margin in the importation of goods covered by anti-dumping procedures into the Polish customs territory by a given foreign exporter is minimal, i.e. smaller than 2 per cent in relation to the export price, the Minister of Economy shall suspend anti-dumping procedures towards the given foreign exporter by measures of a decision.
2. Anti-dumping procedures towards exporters mentioned in paragraph 1 may be reopened at any time if it proves to be justified due to a change in the importation conditions.

## **Section 2** **Final anti-dumping duties**

### Article 36

The Minister of Economy shall especially determine the following elements in his decision to impose final antidumping duties:

- (1) the goods;
- (2) foreign exporters and exporting countries which the final anti-dumping duties shall refer to;
- (3) dumping margins for individual foreign exporters and exporting countries, as well as the value of the final anti-dumping duties in relation to individual or all exporters from the given country, depending on circumstances, with a due consideration to interests of developing countries;
- (4) foreign exporters or exporting countries which accepted the price undertakings.

### Article 37

1. The decision mentioned in Article 38 shall be immediately presented to foreign exporters and domestic importers, as well as governments of the exporting country or countries, the applicant or applicants, and the Committee on Anti-Dumping Practices of the World Trade Organisation (WTO).
2. In the case when the given goods are brought into the Polish customs territory from many sources, final anti-dumping duties shall be imposed in each case in an appropriate amount and in a non-discriminatory way, for the importation from all sources in relation to the dumping and an injury have been confirmed, except for the importation covered by price undertakings.
3. In the case of applying the random control, the final anti-dumping duty imposed upon goods sold or produced by foreign exporters or producers mentioned in Article 26, paragraph 4, cannot exceed the average weighed dumping margin established for foreign exporters or producers covered by the random control.
4. In the case mentioned in paragraph 3 and in order to determine the average weighed dumping margin, margins smaller than 2 per cent in relation to the exportation price are omitted.

### Article 38

1. In the case of a periodical change in the market conditions, which have been the basis of imposing final anti-dumping duties, and after a previous consultation with the President of the Competition and Consumers' Protection Office, the Minister of Economy may make a decision about suspending the application of these duties for a period of up to 9 months. The suspension may be prolonged for the period not exceeding 12 months.

2. Suspended anti-dumping duties can be imposed again by means of a regulation if the reason of suspending them has ceased to exist.

## **Section 3**

### **Collection of anti-dumping duties**

### Article 39

Customs authorities shall determine the amount and the method of collection of anti-dumping duties.

### Article 40

Provisional measures and anti-dumping duties shall be imposed on goods brought into the Polish customs territory after the date specified in the decision mentioned in Article 28, paragraph 1 and Article 33, paragraph 1, unless other provisions dictate otherwise.

### Article 41

In the case when the final anti-dumping duty is higher than the provisional anti-dumping measure, the difference in the sum shall not be collected. If the final anti-dumping duty is lower than the temporary anti-dumping measure, the paid security equal to the difference between the provisional anti-dumping measure and the final anti-dumping duty shall be reimbursed according to rules determined in the Civil Code.

### Article 42

If final determinations do not confirm the existence of dumping or of a material injury, the security made in connection with the imposition of the temporary anti-dumping measures shall be reimbursed. No interest shall be paid on the sum of the reimbursed security.

### Article 43

1. The final anti-dumping duty can be imposed on goods which have been admitted for circulation in the Polish customs territory not earlier than 90 days before the date of imposing the provisional anti-dumping measure, but not earlier than on the date of initiating procedures, provided that parties concerned were given the opportunity to express their opinion and that the following circumstances occur at the same time:

(1) the importation of the respective goods was subjected to a registration mentioned in Article 27, paragraph 2;

(2) the importation of the respective goods at dumping prices for a longer period of time was already confirmed in the past or the domestic importer was aware or should have been aware of the scope of the applied dumping and the injury caused by it;

(3) the importation of goods at dumping prices which caused an injury during the period covered by anti-dumping procedures, continues to increase considerably in such a scope and in such a time that final anti-dumping duties may prove to be insufficient, making the caused injury difficult to repair.

2. The imposition of the final anti-dumping duty mentioned in paragraph 1 shall not violate Article 40.

3. Final anti-dumping duties cannot be imposed retroactively on goods brought into the Polish customs territory before the violation date or before the date of a resignation from the price undertaking.

#### **PART IV**

#### **Procedures in cases connected with avoiding anti-dumping duties**

##### Article 44

1. In the case of the occurrence of circumstances indicating an importation of similar goods or their parts into the Polish customs territory in order to avoid the imposed anti-dumping duties, the Minister of Economy may initiate anti-dumping procedures.

2. Articles 20-29 shall be applied respectively to procedures mentioned in paragraph 1, but they should be completed within 9 months after the date of initiating them.

##### Article 45

In the case of concluding, as a result of the procedures, that the importation covered by the procedures is aimed at avoiding the imposed anti-dumping duties, the Minister of Economy shall impose a final anti-dumping duty upon like goods or their parts from the date of introducing the obligation to register the importation of such goods into the Polish customs territory according to provisions of Article 27.

##### Article 46

1. The avoidance mentioned in Article 44 means a change in the structure of the importation that does not have a justified economic base apart from avoiding consequences of anti-dumping duties, as a result of which there has taken place:

(1) a weakening of consequences of the imposed anti-dumping duties including a decrease of prices of domestic goods;

(2) any other form of a compensation of anti-dumping duties by a foreign exporter.

2. Assembling activities conducted in Poland or in a third country shall be considered to be aimed at avoiding the imposed anti-dumping duties in cases when:

(1) it has been initiated or increased after or directly before the initiation of anti-dumping procedures, and parts used for the assembling are brought from a country the goods imported from are covered by anti-dumping duties;

(2) the value of parts used for the assembling and coming from the country mentioned in paragraph 1 does not constitute less than 60 per cent of the total value of parts of the assembled product, however, the situation when the value added to parts brought during the assembling or finishing exceeds 25 per cent of production costs in no case it shall be considered to be an avoidance of anti-dumping duties;

(3) consequences of the anti-dumping duty are weakened and they do not eliminate the injury done to the domestic industry in terms of prices or the quantity of assembled like goods and there is evidence of an existence of dumping in relation to the normal value previously determined for these goods.

#### Article 47

The President of the Central Board of Customs, acting at the request of the Minister of Economy, shall oblige customs authorities to maintain a separate register of the importation of goods covered by anti-dumping procedures mentioned in Article 44, paragraph 1, according to a provisions of Article 27, paragraphs 2 and 3, with the consideration of:

- (1) the purpose of the registration;
- (2) date when the registration of deliveries shall commence;
- (3) goods covered by the registration of deliveries;
- (4) amount of anti-dumping duty or other securities.

### **PART V**

#### **Review, verification, and revision procedures Rules of reimbursing anti-dumping duties**

#### Article 48

1. Anti-dumping duties shall be applied as long and to such a extent as it is necessary to counteract the dumping causing an injury.

2. Final anti-dumping duties shall cease to be applied not later than within 5 years after the date of imposing them or after the date of completing the last overview of the dumping and the injury, if it has not been concluded during the review that the resignation from the application of imposed anti-dumping duty should lead to a maintenance or a return of the dumping or the injury.

3. A notification about the date of the discontinuation of application of the imposed final anti-dumping duty shall be announced in "Monitor Polski" Official Journal of the Republic of Poland at least 90 days before the date of discontinuation.

4. After the announcement is published, domestic producers shall be entitled to submit a request for a review of consequences of anti-dumping duties imposed so far not later than within 3 months

before the end of the five-year period, in order to determine whether the discontinuation of their application is justified. Thus, a review anti-dumping procedures shall be initiated.

#### Article 49

1. The Minister of Economy shall review anti-dumping procedures:

- (1) at a request submitted in the name of the domestic industry;
- (2) *ex officio*.

2. The request mentioned in paragraph 1.1, should especially specify evidence that the dumping and the injury are maintained or evidence that a partial or complete removal of the injury has become impossible due to the imposed anti-dumping duties, or evidence proving that the position of the foreign exporter or market conditions indicate a probability of a further occurrence of the dumping and injury.

3. During the procedures, foreign exporters, domestic importers, and representatives of the exporting country and the domestic industry shall be ensured a possibility to answer to accusations and express their opinions about the request, while final decisions shall be formulated with the consideration of all important and appropriately confirmed evidence.

4. The imposed anti-dumping duties shall be applied till the moment of terminating review procedures.

#### Article 50

1. The Minister of Economy may, *ex officio*, verify the purposefulness of their application at any time, at least one year after the date of determining final anti-dumping duties against a justified and duly documented request of the concerned foreign exporter or producer, or at the request of a domestic importer or domestic producers. Such a verification shall not be conducted more frequently than once every 12 months.

2. During the verification mentioned in paragraph 1, it shall be especially determined whether circumstances connected with the dumping or the injury have undergone an important change and whether anti-dumping duties applied so far bring intended results removing the injury previously determined. To this end, there shall be taken into consideration all important and documented information and data presented during procedures.

#### Article 51

1. The Minister of Economy may make a decision about initiating revision procedures in order to determine individual dumping margins for new foreign exporters from the exporting country in the case of goods covered by initial anti-dumping procedures if the exporters have not been suppliers of certain products in the examined period on the condition of proving that:

- (1) they are not connected with foreign exporters or producers from the exporting country whose goods are subjected to anti-dumping measures;
- (2) the foreign exporter or producer have exported the goods into the Polish customs territory after the completion of the initial procedures, or he can prove that he has concluded binding



and mature contractual obligations concerning an exportation of a considerable quantities of goods into the Polish customs territory.

2. The Minister of Economy shall initiate revision procedures mentioned in paragraph 1 after enabling domestic producers to express their opinion about the request.

3. In his decision on initiating revision procedures, the Minister of Economy shall repeal anti-dumping duties imposed upon foreign exporters mentioned in paragraph 1 as a result of the initial anti-dumping procedures initiated against the importation of certain goods into the Polish customs territory from countries of these foreign exporters.

4. The President of the Central Board of Customs, acting at the request of the Minister of Economy, shall oblige customs authorities to maintain a separate register of the importation of goods covered by anti-dumping procedures mentioned in paragraph 1 according to provisions of Article 27.

5. Anti-dumping duties imposed as a result of revision procedures may be imposed retroactively starting from the date of making the decision on initiating revision procedures.

6. Provisions of paragraphs 1-5 shall be applied in the case when anti-dumping duties have been imposed in initial procedures on the grounds of results of a random control.

#### Article 52

In the case when as a result of procedures mentioned in Articles 49-51 anti-dumping duties shall be applied only to certain foreign exporters from the given country, and they shall continue to be valid against other foreign exporters from this country, foreign exporters against whom the anti-dumping duties shall be repealed, shall remain the subject of procedures and may be automatically subjected to other examinations in each subsequent procedure.

#### Article 53

Articles 48-52 shall be applied respectively to price undertakings, except for regulations of Article 51, paragraphs 5-6.

#### Article 54

1. Procedures mentioned in Articles 49 and 50 shall be terminated within 12 months and, in special cases, 18 months after their initiation.

2. Revision procedures mentioned in Article 51, should be initiated without an undue delay and they should be terminated as soon as possible, but not later than within 12 months.

3. Provisions of Articles 20-28 and 32-38 shall be applied respectively to procedures mentioned in Articles 49-53.

#### Article 55

1. The Minister of Economy may resume anti-dumping procedures after previous consultations with foreign exporters and domestic importers of the goods, and the President of the Competition and Consumers' Protection Office in the case when the domestic industry supplies sufficient evidence proving that the applied anti-dumping procedures have not resulted in any movements in domestic prices or have led to movements of these prices insufficient to repair the injury.

2. Provisions of Articles 20-28 and 32-38 shall be applied respectively to procedures mentioned in paragraph 1, providing that they will be resumed without an undue delay and terminated within 6 months after the date of resuming them.

#### Article 56

1. The paid anti-dumping duties shall be reimbursed to the domestic importer on the basis of a decision of the Minister of Economy confirming the justification of the reimbursement of the anti-dumping duties.

2. The Minister of Economy shall make a decision mentioned in paragraph 1 at a written request of the domestic importer containing exact information about the demanded sum of the anti-dumping duty to be reimbursed, submitted together with a complete documentation referring to the calculation and payment of the said sum. The application should also indicate the justification of the reimbursement of the anti-dumping duty, and especially the fact that the dumping margin did not exist or was smaller than the dumping margin on the basis of which the rate of the anti-dumping duty forming the basis of the calculation and collection of the said duty was determined in the moment of collecting it.

3. A written request of the domestic importer mentioned in paragraph 2 should be submitted within 6 months from the day of informing the person obliged to pay the final anti-dumping duty.

4. In order to make the decision about the grounds for a reimbursement of the anti-dumping duty, the Minister of Economy may initiate review anti-dumping procedures.

5. The decision about the justification of the reimbursement of the anti-dumping duty should especially determine data referring to customs declarations of goods covered by the duty to be reimbursed, as well as the sums to be reimbursed. The said decision should be taken within 12 months after the submission of the request mentioned in paragraph 2. In special cases, the deadline can be prolonged up to 18 months.

6. The customs authority which has collected the anti-dumping duty makes a decision on reimbursing the anti-dumping duty within 30 days after the domestic importer submits the written request together with a decision of the Minister of Economy about the grounds of reimbursing the anti-dumping duty, the original of the receipt of the anti-dumping duty payment and documents the presentation of which is necessary to determine the customs designation of the goods.

7. The amount of the anti-dumping duty to be reimbursed is considered *ex officio* as overdue or current debt resulting from customs duties.

8. In the case of a lack of the debt mentioned in paragraph 7 above, the anti-dumping duty is returned within 30 days after the date of making the decision on approving the reimbursement.

9. No interests shall be paid on the reimbursed anti-dumping duty.

10. The Minister of Economy shall determine by in a regulation:

(1) mode and method of making the decision about the grounds for the reimbursement of the anti-dumping duty;

(2) the form of the request for a decision on the grounds for the reimbursement of the anti-dumping duty and documents that shall be attached to the form.

#### Article 57

Customs authorities reimburse the anti-dumping duty on the basis of provisions of the present Law, irrespectively of a reimbursement of customs duties on the grounds of the Customs Code.

#### Article 58

In all examinations relating to the review, verifications, revisions, and reimbursements, a methodology implemented during procedures that led to the imposition of the duties is applied.

### **PART VI**

#### **Confidentiality guarantee**

#### Article 59

1. All information of a confidential nature, especially those a disclosure of which would constitute a considerable competitive advantage for companies or would have significantly adverse effect for the person supplying the information or upon a person from whom that person acquired the information, or which is provided on a confidential basis by parties to the investigation, shall be treated as confidential, unless there is no good cause shown to consider it confidential.

2. Parties concerned providing confidential information shall be obliged to furnish non-confidential summaries thereof. These summaries shall be in sufficient detail to permit a reasonable understanding of the substance of the information. In justified circumstances, parties concerned may inform the Minister of Economy that such an information is not susceptible of summary. In such circumstances they shall be obliged to justify their opinion.

3. In the case when the person supplying the information refuses to reveal it in a generalised summary, the information may be disregarded, unless other reliable sources confirm it.

#### Article 60

1. If there is a necessity to make the information and evidence obtained during anti-dumping procedures conducted on the basis of provisions of the present Law public, the Minister of Economy may reveal them within the scope necessary to explain solutions undertaken in the procedures. Provisions of Article 59 shall not be applied in such a case.

2. When revealing information and evidence mentioned in paragraph 1, a justified interest of the parties concerned, including the parties' right to keep trade secrets shall be taken into consideration.

#### Article 61

1. Confidential information obtained on the basis of the present Law cannot be revealed without a clear authorisation of the person who has supplied it.

2. Information referring to official consultations conducted on the basis of the present Law, as well as other internal documents prepared by state authorities in connection with procedures conducted on the basis of the present Law, can be revealed only on authorisation of these authorities.

3. Information obtained on the basis of the present Law can be utilised only for purposes for which it has been collected.

**PART VII**  
**Provisional and final regulations**

Article 62

Anti-dumping procedures which have been initiated and not completed in the form of a final decision before the present Law coming into force shall be continued according to provisions valid so far.

Article 63

The present Law shall come into force on 1 January 1998.

President of the Republic of Poland: *A. Kwaśniewski*

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