

<p>Regulations of the People's Republic of China on Anti-dumping</p> <p>The Decision of the State Council on Amending the Regulations of the People's Republic of China on Anti-dumping is now promulgated and shall enter into force as of June 1, 2004</p> <p>Premier: WEN Jiabao March 31, 2004</p> <p>(Promulgated by Decree No. 328 of the State Council of the People's Republic of China on 26 November 2001, and amended by the Decision of the State Council on Amending the Regulations of the People's Republic of China on Anti-dumping on March 31, 2004)</p>	<p>中华人民共和国反倾销条例 (国务院令 第 401 号)</p> <p>现公布《国务院关于修改〈中华人民共和国反倾销条例〉的决定》，自 2004 年 6 月 1 日起施行。</p> <p>总理 温家宝 二 0 0 四年三月三十一日</p> <p>中华人民共和国反倾销条例 (2001 年 11 月 26 日中华人民共和国国务院令 第 328 号公布 根据 2004 年 3 月 31 日《国务院关于修改〈中华人民共和国反倾销条例〉的决定》修订)</p>	<p>AGREEMENT ON IMPLEMENTATION OF ARTICLE VI OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994</p> <p><i>Members hereby agree as follows:</i></p> <p>PART I</p>
<p>Chapter 1 - General Provisions</p> <p>Article 1. These Regulations are formulated in accordance with the relevant provisions of the Foreign Trade Law of the People's Republic of China for the purpose of maintaining the foreign trade order and fair competition.</p>	<p>第一章 总 则</p> <p>第一条 为了维护对外贸易秩序和公平竞争，根据《中华人民共和国对外贸易法》的有关规定，制定本条例。</p>	<p><i>Article 1</i></p> <p><i>Principles</i></p> <p>An anti-dumping measure shall be applied only under the circumstances provided for in Article VI of GATT 1994 and pursuant to investigations initiated¹ and conducted in accordance with the provisions of this Agreement. The following provisions govern the application of Article VI of GATT 1994 in so far as action is taken under anti-dumping legislation or regulations.</p>
<p>Article 2. Where an imported product is dumped into the market of the People's Republic of China and</p>	<p>第二条 进口产品以倾销方式进入中华人民共和国市</p>	<p><i>Article 2</i></p>

¹ The term "initiated" as used in this Agreement means the procedural action by which a Member formally commences an investigation as provided in Article 5.

<p>causes material injury or threat of material injury to an established domestic industry, or causes material obstruction to the establishment of such an industry, an anti-dumping investigation shall be initiated and anti-dumping measures applied in accordance with the provisions of these Regulations.</p> <p style="text-align: center;">Chapter II - Dumping and Injury</p> <p>Article 3. The term "dumping" means that an imported product is introduced, in the ordinary course of trade, into the market of the People's Republic of China at an export price less than its normal value.</p> <p>The Ministry of Commerce (hereinafter referred to as "MOFCOM") shall be responsible for the investigation and determination of dumping.</p> <p>Article 4. The normal value of an imported product shall be determined according to the following methods by distinguishing among differing cases:</p> <p>(1) where there is a comparable price for the like product of the imported product in the ordinary course of trade in the domestic market of the exporting country (region), such comparable price shall be the normal value;</p> <p>(2) where there are no sales of the like product of the imported product in the ordinary course of trade in the domestic market of the exporting country (region), or</p>	<p>场，并对已经建立的国内产业造成实质损害或者产生实质损害威胁，或者对建立国内产业造成实质阻碍的，依照本条例的规定进行调查，采取反倾销措施。</p> <p>第二章 倾销与损害</p> <p>第三条 倾销，是指在正常贸易过程中进口产品以低于其正常价值的出口价格进入中华人民共和国市场。</p> <p>对倾销的调查和确定，由商务部负责。</p> <p>第四条 进口产品的正常价值，应当区别不同情况，按照下列方法确定：</p> <p>（一）进口产品的同类产品，在出口国（地区）国内市场的正常贸易过程中有可比价格的，以该可比价格为正常价值；</p> <p>（二）进口产品的同类产品，在出口国（地区）国内市场的正常贸易过程中没有销售的，或者该同类产品的价格、数量不能据以进行公平比较的，以该同类产品出口到一个适当第三国（地区）的可比价格或者以该同类产品在原产国（地区）的生产成本加合理费用、利润，为正常价值。</p>	<p style="text-align: center;"><i>Determination of Dumping</i></p> <p>2.1 For the purpose of this Agreement, a product is to be considered as being dumped, i.e. introduced into the commerce of another country at less than its normal value, if the export price of the product exported from one country to another is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country.</p> <p>2.2 When there are no sales of the like product in the ordinary course of trade in the domestic market of the exporting country or when, because of the particular market situation or the low volume of the sales in the domestic market of the exporting country², such sales do not permit a proper comparison, the margin of dumping shall be determined by comparison with a comparable price of the like product when exported to an appropriate third country, provided that this price is representative, or with the cost of production in the country of origin plus a reasonable amount for administrative, selling and general costs and for profits.</p> <p style="text-align: center;">2.2.1</p> <p>Sales of the like product in the domestic market of the exporting country or sales to a third country at prices below per unit (fixed and variable) costs of production plus administrative, selling and general costs may be treated as not being in the ordinary course of trade by reason of price and may be</p>
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² Sales of the like product destined for consumption in the domestic market of the exporting country shall normally be considered a sufficient quantity for the determination of the normal value if such sales constitute 5 per cent or more of the sales of the product under consideration to the importing Member, provided that a lower ratio should be acceptable where the evidence demonstrates that domestic sales at such lower ratio are nonetheless of sufficient magnitude to provide for a proper comparison.

<p>the price and the quantity of such sales do not permit a fair comparison, the normal value shall be the comparable price of the like product when exported to an appropriate third country (region) or the cost of production of the like product in the country (region) of origin plus a reasonable amount for expenses and for profits.</p> <p>In cases where a product is not imported directly from the country (region) of origin, its normal value shall be determined in accordance with Item 1 of the preceding paragraph. However, under the circumstances that the product is merely transshipped through the exporting country, or the product is not produced in the exporting country (region), or there is no comparable price for the said product in the exporting country (region), the price of the like product in the country (region) of origin may be taken as the normal value.</p> <p>Article 5. The export price of an imported product shall be determined according to the following methods by distinguishing among differing cases:</p> <p>(1) the price actually paid or payable for the imported product shall be the export price;</p> <p>(2) in cases where there is no export price for the imported product or the price is unreliable, the export price may be fixed on the basis of the price at which the imported product is first resold to an independent</p>	<p>进口产品不直接来自原产国（地区）的，按照前款第（一）项规定确定正常价值；但是，在产品仅通过出口国（地区）转运、产品在出口国（地区）无生产或者在出口国（地区）中不存在可比价格等情形下，可以以该同类产品在原产国（地区）的价格为正常价值。</p> <p>第五条 进口产品的出口价格，应当区别不同情况，按照下列方法确定：</p> <p>（一）进口产品有实际支付或者应当支付的价格的，以该价格为出口价格；</p> <p>（二）进口产品没有出口价格或者其价格不可靠的，以根据该进口产品首次转售给独立购买人的价格推定的价格为出口价格；但是，该进口产品未转售给独立购买人或者未按进口时的状态转售的，可以以商务部根据合理基础推定的价格为出口价格。</p> <p>第六条 进口产品的出口价格低于其正常价值的幅度，为倾销幅度。</p> <p>对进口产品的出口价格和正常价值，应当考虑影响价格的各种可比性因素，按照公平、合理的方式进行比较。</p>	<p>disregarded in determining normal value only if the authorities³ determine that such sales are made within an extended period of time⁴ in substantial quantities⁵ and are at prices which do not provide for the recovery of all costs within a reasonable period of time. If prices which are below per unit costs at the time of sale are above weighted average per unit costs for the period of investigation, such prices shall be considered to provide for recovery of costs within a reasonable period of time.</p> <p>2.2.1.1 For the purpose of paragraph 2, costs shall normally be calculated on the basis of records kept by the exporter or producer under investigation, provided that such records are in accordance with the generally accepted accounting principles of the exporting country and reasonably reflect the costs associated with the production and sale of the product under consideration. Authorities shall consider all available evidence on the proper allocation of costs, including that which is made available by the exporter or producer in the course of the investigation provided that such allocations have been</p>
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³ When in this Agreement the term "authorities" is used, it shall be interpreted as meaning authorities at an appropriate senior level.

⁴ The extended period of time should normally be one year but shall in no case be less than six months.

⁵ Sales below per unit costs are made in substantial quantities when the authorities establish that the weighted average selling price of the transactions under consideration for the determination of the normal value is below the weighted average per unit costs, or that the volume of sales below per unit costs represents not less than 20 per cent of the volume sold in transactions under consideration for the determination of the normal value.

<p>buyer; however, if the imported product is not resold to an independent buyer, or not resold in the condition as imported, the export price may be determined on the basis of a reasonable price fixed by MOFCOM.</p> <p>Article 6. The margin of dumping is the amount by which the export price of an imported product is less than its normal value.</p> <p>A fair and reasonable comparison shall be made between the export price and the normal value of an imported product, with due allowance for factors which affect price comparability.</p> <p>The margin of dumping shall be established on the basis of a comparison of a weighted average normal value with a weighted average of prices of all comparable export transactions or by a comparison of normal value and export price on a transaction-to-transaction basis.</p> <p>Where the export prices differ significantly among different purchasers, regions or time periods, and therefore it is difficult to make comparison through the methods prescribed in the preceding paragraph, a comparison may be made between a weighted average normal value with prices of individual export transactions.</p>	<p>倾销幅度的确定，应当将加权平均正常价值与全部可比出口交易的加权平均价格进行比较，或者将正常价值与出口价格在逐笔交易的基础上进行比较。</p> <p>出口价格在不同的购买人、地区、时期之间存在很大差异，按照前款规定的方法难以比较的，可以将加权平均正常价值与单一出口交易的价格进行比较。</p>	<p>historically utilized by the exporter or producer, in particular in relation to establishing appropriate amortization and depreciation periods and allowances for capital expenditures and other development costs. Unless already reflected in the cost allocations under this sub-paragraph, costs shall be adjusted appropriately for those non-recurring items of cost which benefit future and/or current production, or for circumstances in which costs during the period of investigation are affected by start-up operations.⁶</p> <p>2.2.2 For the purpose of paragraph 2, the amounts for administrative, selling and general costs and for profits shall be based 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:</p> <p>(i) 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;</p>
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⁶ The adjustment made for start-up operations shall reflect the costs at the end of the start-up period or, if that period extends beyond the period of investigation, the most recent costs which can reasonably be taken into account by the authorities during the investigation.

		<p>(ii) 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;</p> <p>(iii) any other reasonable method, provided that 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.</p> <p>2.3 In cases where there is no export price or where it appears to the authorities concerned that the export price is unreliable because of association or a compensatory arrangement between the exporter and the importer or a third party, the export price may be constructed on the basis of the price at which the imported products are first resold to an independent buyer, or if the products are not resold to an independent buyer, or not resold in the condition as imported, on such reasonable basis as the authorities may determine.</p> <p>2.4 A fair comparison shall be made between the export price and the normal value. This comparison shall be made at the same level of trade, normally at the ex-factory level, and in respect of sales made at as nearly as possible the same time. Due allowance shall be made in each case, on its merits, for differences which affect price comparability, including</p>
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		<p>differences in conditions and terms of sale, taxation, levels of trade, quantities, physical characteristics, and any other differences which are also demonstrated to affect price comparability.⁷ In the cases referred to in paragraph 3, allowances for costs, including duties and taxes, incurred between importation and resale, and for profits accruing, should also be made. If in these cases price comparability has been affected, the authorities shall establish the normal value at a level of trade equivalent to the level of trade of the constructed export price, or shall make due allowance as warranted under this paragraph. The authorities shall indicate to the parties in question what information is necessary to ensure a fair comparison and shall not impose an unreasonable burden of proof on those parties.</p> <p>2.4.1 When the comparison under paragraph 4 requires a conversion of currencies, such conversion should be made using the rate of exchange on the date of sale⁸, provided that when a sale of foreign currency on forward markets is directly linked to the export sale involved, the rate of exchange in the forward sale shall be used. Fluctuations in exchange rates shall be ignored and in an investigation the authorities shall allow exporters at least 60 days to have adjusted their export prices to reflect sustained movements in exchange rates during the period of investigation.</p>
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⁷ It is understood that some of the above factors may overlap, and authorities shall ensure that they do not duplicate adjustments that have been already made under this provision.

⁸ Normally, the date of sale would be the date of contract, purchase order, order confirmation, or invoice, whichever establishes the material terms of sale.

		<p>2.4.2 Subject to the provisions governing fair comparison in paragraph 4, the existence of margins of dumping during the investigation phase shall normally be established on the basis of a comparison of a weighted average normal value with a 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. A normal value established on a weighted average basis may be compared to prices of individual export transactions if the authorities find a pattern of export prices which differ significantly among different purchasers, regions or time periods, and if an explanation is provided as to why such differences cannot be taken into account appropriately by the use of a weighted average-to-weighted average or transaction-to-transaction comparison.</p> <p>2.5 In the case where products are not imported directly from the country of origin but are exported to the importing Member from an intermediate country, the price at which the products are sold from the country of export to the importing Member shall normally be compared with the comparable price in the country of export. However, comparison may be made with the price in the country of origin, if, for example, the products are merely transshipped through the country of</p>
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		<p>export, or such products are not produced in the country of export, or there is no comparable price for them in the country of export.</p> <p>2.6 Throughout this Agreement the term "like product" ("produit similaire") shall be interpreted to mean a product which is identical, i.e. alike in all respects to the product under consideration, or in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration.</p> <p>2.7 This Article is without prejudice to the second Supplementary Provision to paragraph 1 of Article VI in Annex I to GATT 1994.</p>
<p>Article 7. The term "injury" means material injury or threat of material injury to an established domestic industry or material obstruction of the establishment of such a domestic industry.</p> <p>MOFCOM shall be responsible for the investigation and determination of injury. The anti-dumping investigation of injury to a domestic industry involving agricultural products shall be conducted by MOFCOM jointly with the Ministry of Agriculture.</p> <p>Article 8. The following factors shall be examined in the determination of injury caused by dumping to a domestic industry:</p> <p>(1) whether the volume of dumped imports, including the volume of dumped imports either in absolute</p>	<p>第七条 损害，是指倾销对已经建立的国内产业造成实质损害或者产生实质损害威胁，或者对建立国内产业造成实质阻碍。</p> <p>对损害的调查和确定，由商务部负责；其中，涉及农产品的反倾销国内产业损害调查，由商务部会同农业部进行。</p> <p>第八条 在确定倾销对国内产业造成的损害时，应当审查下列事项：</p> <p>（一）倾销进口产品的数量，包括倾销进口产品的绝对数量或者相对于国内同类产品生产或者消费的数量是否大量增加，或者倾销</p>	<p style="text-align: center;"><i>Article 3</i></p> <p style="text-align: center;"><i>Determination of Injury</i>⁹</p> <p>3.1 A determination of injury for purposes of Article VI of GATT 1994 shall be based on positive evidence and involve an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for like products, and (b) the consequent impact of these imports on domestic producers of such products.</p> <p>3.2 With regard to the volume of the dumped imports, the investigating authorities shall consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in the importing Member. With regard to the effect of the</p>

⁹ Under this Agreement the term "injury" shall, unless otherwise specified, be taken to mean material injury to a domestic industry, threat of material injury to a domestic industry or material retardation of the establishment of such an industry and shall be interpreted in accordance with the provisions of this Article.

<p>terms or relative to the production or consumption of a like domestic product, has been increasing significantly, or the possibility of a significant increase in dumped imports;</p> <p>(2) the effects of dumped imports on prices, including the price undercutting by the dumped imports, or the significant suppressing or depressing effects on the price of a like domestic product, etc.;</p> <p>(3) the consequent impact of the dumped imports on the relevant economic factors and indices of the domestic industry;</p> <p>(4) the production capacity or export capacity of the exporting country (region) or the country (region) of origin, and inventories of the product under investigation;</p> <p>(5) other factors that may cause or have caused injury to a domestic industry.</p> <p>The determination of threat of material injury shall be based on facts and not merely on allegation, conjecture or remote possibility.</p> <p>When determining the injury caused by dumping to a domestic industry, the determination shall be based on positive evidence, and the injuries caused by factors other than dumping must not be attributed to dumping.</p> <p>Article 9. Where the dumped imports from more than one country (region) simultaneously satisfy the following requirements, the effects of such dumped imports on a domestic industry may be cumulatively</p>	<p>进口产品大量增加的可能性;</p> <p>(二) 倾销进口产品的价格, 包括倾销进口产品的价格削减或者对国内同类产品的价格产生大幅度抑制、压低等影响;</p> <p>(三) 倾销进口产品对国内产业的相关经济因素和指标的影响;</p> <p>(四) 倾销进口产品的出口国(地区)、原产国(地区)的生产能力、出口能力, 被调查产品的库存情况;</p> <p>(五) 造成国内产业损害的其他因素。</p> <p>对实质损害威胁的确定, 应当依据事实, 不得仅依据指控、推测或者极小的可能性。</p> <p>在确定倾销对国内产业造成的损害时, 应当依据肯定性证据, 不得将造成损害的非倾销因素归因于倾销。</p> <p>第九条 倾销进口产品来自两个以上国家(地区), 并且同时满足下列条件的, 可以就倾销进口产品对国内产业造成的影响进行累积评估:</p> <p>(一) 来自每一国家(地区)的倾销进口产品的倾销幅度不小于2%, 并且其进口量不属于可忽略不计的;</p>	<p>dumped imports on prices, the investigating authorities shall consider whether there has been a significant price undercutting by the dumped imports as compared with the price of a like product of the importing Member, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. No one or several of these factors can necessarily give decisive guidance.</p> <p>3.3 Where imports of a product from more than one country are simultaneously subject to anti-dumping investigations, the investigating authorities may cumulatively assess the effects of such imports only if they determine that (a) the margin of dumping established in relation to the imports from each country is more than <i>de minimis</i> as defined in paragraph 8 of Article 5 and the volume of imports from each country is not negligible and (b) a cumulative assessment of the effects of the imports is appropriate in light of the conditions of competition between the imported products and the conditions of competition between the imported products and the like domestic product.</p> <p>3.4 The examination of the impact of the dumped imports on the domestic industry concerned shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments, or utilization of capacity; factors affecting domestic prices; the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital or investments. This list is not exhaustive, nor can one or several of these factors necessarily give decisive guidance.</p> <p>3.5 It must be demonstrated that the dumped imports</p>
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<p>assessed:</p> <p>(1) the margin of dumping established in relation to the dumped imports from each country (region) is no less than 2 per cent, and the volume of such imports from each country is not negligible;</p> <p>(2) a cumulative assessment of the effects of the dumped imports is appropriate in light of the conditions of competition between the dumped imports and the conditions of competition between the dumped imports and the domestic like product.</p> <p>The volume of dumped imports shall normally be regarded as negligible if the volume of dumped imports from a particular country (region) is found to account for less than 3 per cent of the total imports of the like product, unless countries (regions) which individually account for less than 3 per cent of the total imports of the like product collectively account for more than 7 per cent of its total imports of the like product.</p> <p>Article 10. The effect of the dumped imports shall be assessed in relation to the separate identification of the domestic production of the like product. If separate identification of that production is not possible, the effect of the dumped imports shall be assessed by the examination of the production of the narrowest group or range of products, including the like domestic product.</p>	<p>(二) 根据倾销进口产品之间以及倾销进口产品与国内同类产品之间的竞争条件, 进行累积评估是适当的。</p> <p>可忽略不计, 是指来自一个国家(地区)的倾销进口产品的数量占同类产品总进口量的比例低于3%; 但是, 低于3%的若干国家(地区)的总进口量超过同类产品总进口量7%的除外。</p> <p>第十条 评估倾销进口产品的影响, 应当针对国内同类产品的生产进行单独确定; 不能针对国内同类产品的生产进行单独确定的, 应当审查包括国内同类产品在内的最窄产品组或者范围的生产。</p>	<p>are, through the effects of dumping, as set forth in paragraphs 2 and 4, causing injury within the meaning of this Agreement. The demonstration of a causal relationship between the dumped imports and the injury to the domestic industry shall be based on an examination of all relevant evidence before the authorities. The authorities shall also examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, and the injuries caused by these other factors must not be attributed to the dumped imports. Factors which may be relevant in this respect include, <i>inter alia</i>, the volume and prices of imports not sold at dumping prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry.</p> <p>3.6 The effect of the dumped imports shall be assessed in relation to the domestic production of the like product when available data permit the separate identification of that production on the basis of such criteria as the production process, producers' sales and profits. If such separate identification of that production is not possible, the effects of the dumped imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes the like product, for which the necessary information can be provided.</p> <p>3.7 A determination of a threat of material injury shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances which would create a situation in which the dumping would cause injury must be clearly foreseen and imminent.¹⁰ In making a</p>
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¹⁰ One example, though not an exclusive one, is that there is convincing reason to believe that there will be, in the near future, substantially increased importation of the product at dumped prices.

		<p>determination regarding the existence of a threat of material injury, the authorities should consider, <i>inter alia</i>, such factors as:</p> <ul style="list-style-type: none"> (i) a significant rate of increase of dumped imports into the domestic market indicating the likelihood of substantially increased importation; (ii) sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to the importing Member's market, taking into account the availability of other export markets to absorb any additional exports; (iii) whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and (iv) inventories of the product being investigated. <p>No one of these factors by itself can necessarily give decisive guidance but the totality of the factors considered must lead to the conclusion that further dumped exports are imminent and that, unless protective action is taken, material injury would occur.</p> <p>3.8 With respect to cases where injury is threatened by dumped imports, the application of anti-dumping measures shall be considered and decided with special care.</p>
<p>Article 11. The term "domestic industry" means the</p>	<p>第十一条</p>	<p>Article 4</p>

<p>domestic producers as a whole of the like products within the People's Republic of China or those of them whose collective output of the product constitutes a major proportion of the total production of those products, except in cases where domestic producers are related to the exporters or importers or are themselves importers of the dumped imports or like products.</p> <p>In exceptional circumstances, the producers within a regional domestic market may be regarded as a separate industry if the producers within the market sell all or almost all of the like products in that market, and the demand in that market is not to any substantial degree supplied by domestic producers of the like products located in other domestic regions.</p> <p>Article 12. The term "like product" means the product that is identical to the dumped product, or in the absence of such a product, another product that has characteristics closely resembling the dumped product.</p>	<p>国内产业，是指中华人民共和国国内同类产品的全部生产者，或者其总产量占国内同类产品全部总产量的主要部分的生产者；但是，国内生产者与出口经营者或者进口经营者有关联的，或者其本身为倾销进口产品的进口经营者的，可以排除在国内产业之外。</p> <p>在特殊情形下，国内一个区域市场中的生产者，在该市场中销售其全部或者几乎全部的同类产品，并且该市场中同类产品的需求主要不是由国内其他地方的生产者供给的，可以视为一个单独产业。</p> <p>第十二条 同类产品，是指与倾销进口产品相同的产品；没有相同产品的，以与倾销进口产品的特性最相似的产品为同类产品。</p>	<p style="text-align: center;"><i>Definition of Domestic Industry</i></p> <p>4.1 For the purposes of this Agreement, the term "domestic industry" shall be interpreted as referring to the domestic producers as a whole of the like products or to those of them whose collective output of the products constitutes a major proportion of the total domestic production of those products, except that:</p> <ul style="list-style-type: none"> (i) when producers are related ¹¹ to the exporters or importers or are themselves importers of the allegedly dumped product, the term "domestic industry" may be interpreted as referring to the rest of the producers; (ii) in exceptional circumstances the territory of a Member may, for the production in question, be divided into two or more competitive markets and the producers within each market may be regarded as a separate industry if (a) the producers within such market sell all or almost all of their production of the product in question in that market, and (b) the demand in that market is not to any substantial degree supplied by producers of the product in question located elsewhere in the territory. In such circumstances, injury may be found to exist even where a major portion of the total
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¹¹ For the purpose of this paragraph, producers shall be deemed to be related to exporters or importers only if (a) one of them directly or indirectly controls the other; or (b) both of them are directly or indirectly controlled by a third person; or (c) together they directly or indirectly control a third person, provided that there are grounds for believing or suspecting that the effect of the relationship is such as to cause the producer concerned to behave differently from non-related producers. For the purpose of this paragraph, 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.

		<p>domestic industry is not injured, provided there is a concentration of dumped imports into such an isolated market and provided further that the dumped imports are causing injury to the producers of all or almost all of the production within such market.</p> <p>4.2 When the domestic industry has been interpreted as referring to the producers in a certain area, i.e. a market as defined in paragraph 1(ii), anti-dumping duties shall be levied¹² only on the products in question consigned for final consumption to that area. When the constitutional law of the importing Member does not permit the levying of anti-dumping duties on such a basis, the importing Member may levy the anti-dumping duties without limitation only if (a) the exporters shall have been given an opportunity to cease exporting at dumped prices to the area concerned or otherwise give assurances pursuant to Article 8 and adequate assurances in this regard have not been promptly given, and (b) such duties cannot be levied only on products of specific producers which supply the area in question.</p> <p>4.3 Where two or more countries have reached under the provisions of paragraph 8(a) of Article XXIV of GATT 1994 such a level of integration that they have the characteristics of a single, unified market, the industry in the entire area of integration shall be taken to be the domestic industry referred to in paragraph 1.</p> <p>4.4 The provisions of paragraph 6 of Article 3 shall be applicable to this Article.</p>
Chapter III - Anti-dumping Investigation	第三章 反倾销调查	Article 5

¹² As used in this Agreement "levy" shall mean the definitive or final legal assessment or collection of a duty or tax.

<p>Article 13. Any domestic industry or natural person, legal person or relevant organisation on behalf of the domestic industry (hereinafter collectively referred to as "the applicant") may make a written application to MOFCOM for an anti-dumping investigation in accordance with the provisions of these Regulations.</p> <p>Article 14. The application shall contain the following information:</p> <p>(1) the name, address and relevant information of the applicant;</p> <p>(2) a complete description of the imported products in question, including the names of products, the exporting countries (regions) or the countries (regions) of origin concerned, the identity of known exporters or producers, information on the prices of the products destined for consumption in the domestic market of the exporting countries (regions) or the countries (regions) of origin, and information on export prices, etc.;</p> <p>(3) a description of the volume and value of the domestic production of the like product;</p> <p>(4) the effect of the volume and price of the imported product in question on the domestic industry;</p> <p>(5) other information that the applicant considers as necessary to submit.</p> <p>Article 15. The application shall be supported by the following evidence:</p> <p>(1) existence of dumping of the imported product in</p>	<p>第十三条 国内产业或者代表国内产业的自然人、法人或者有关组织（以下统称申请人），可以依照本条例的规定向商务部提出反倾销调查的书面申请。</p> <p>第十四条 申请书应当包括下列内容：</p> <p>（一）申请人的名称、地址及有关情况；</p> <p>（二）对申请调查的进口产品的完整说明，包括产品名称、所涉及的出口国（地区）或者原产国（地区）、已知的出口经营者或者生产者、产品在出口国（地区）或者原产国（地区）国内市场消费时的价格信息、出口价格信息等；</p> <p>（三）对国内同类产品生产的数量 and 价值的说明；</p> <p>（四）申请调查进口产品的数量和价格对国内产业的影响；</p> <p>（五）申请人认为需要说明的其他内容。</p> <p>第十五条 申请书应当附具下列证据：</p> <p>（一）申请调查的进口产品存在倾销；</p> <p>（二）对国内产业的损害；</p> <p>（三）倾销与损害之间存在因果关系。</p>	<p style="text-align: center;"><i>Initiation and Subsequent Investigation</i></p> <p>5.1 Except as provided for in paragraph 6, an investigation to determine the existence, degree and effect of any alleged dumping shall be initiated upon a written application by or on behalf of the domestic industry.</p> <p>5.2 An application under paragraph 1 shall include evidence of (a) dumping, (b) injury within the meaning of Article VI of GATT 1994 as interpreted by this Agreement and (c) a causal link between the dumped imports and the alleged injury. Simple assertion, unsubstantiated by relevant evidence, cannot be considered sufficient to meet the requirements of this paragraph. The application shall contain such information as is reasonably available to the applicant on the following:</p> <p>(i) the identity of the applicant and a description of the volume and value of the domestic production of the like product by the applicant. Where a written application is made on behalf of the domestic industry, the application shall identify the industry on behalf of which the application is made by a list of all known domestic producers of the like product (or associations of domestic producers of the like product) and, to the extent possible, a description of the volume and value of domestic production of the like product accounted for by such producers;</p> <p>(ii) a complete description of the allegedly dumped product, the names of the country or countries of origin or export in question, the identity of each known exporter or</p>
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<p>question;</p> <p>(2) injury caused to a domestic industry;</p> <p>(3) existence of a causal link between dumping and the injury.</p> <p>Article 16. MOFCOM shall, within 60 days from the date of receipt of the application and relevant evidence submitted by the applicant, examine whether the application is made by or on behalf of the domestic industry, the contents of the application and the evidence attached thereto, and shall decide whether or not to initiate an investigation.</p> <p>Prior to the decision to initiate an investigation, the government of the exporting country (region) concerned shall be notified.</p> <p>Article 17. An application shall be considered to have been made by or on behalf of the domestic industry and an anti-dumping investigation may be initiated, if the application is supported by those domestic producers whose collective output constitutes more than 50 per cent of the total production of the like product produced by that portion of the domestic industry expressing either support for or opposition to the application. However, no investigation shall be initiated when the output of those domestic producers expressly supporting the application account for less than 25 per cent of the total production of the like domestic product.</p> <p>Article 18. If, in exceptional circumstances, MOFCOM</p>	<p>第十六条 商务部应当自收到申请人提交的申请书及有关证据之日起 60 天内, 对申请是否由国内产业或者代表国内产业提出、申请书内容及所附具的证据等进行审查, 并决定立案调查或者不立案调查。</p> <p>在决定立案调查前, 应当通知有关出口国 (地区) 政府。</p> <p>第十七条 在表示支持申请或者反对申请的国内产业中, 支持者的产量占支持者和反对者的总产量的 50 % 以上的, 应当认定申请是由国内产业或者代表国内产业提出, 可以启动反倾销调查; 但是, 表示支持申请的国内生产者的产量不足国内同类产品总产量的 25 % 的, 不得启动反倾销调查。</p> <p>第十八条 在特殊情形下, 商务部没有收到反倾销调查的书面申请, 但有充分证据认为存在倾销和损害以及二者之间有因果关系的, 可以决定立案调查。</p> <p>第十九条 立案调查的决定, 由商务部予以公告, 并通知申请人、已知的出口经营者和进口经营者、出口国 (地区) 政府以及其他有利害关系的组织、个人 (以下统称利害关系方)。</p> <p>立案调查的决定一经公告, 商务部应当将申请书文本提供给已知的出口经营者和出口国</p>	<p>foreign producer and a list of known persons importing the product in question;</p> <p>(iii) information on prices at which the product in question is sold when destined for consumption in the domestic markets of the country or countries of origin or export (or, where appropriate, information on the prices at which the product is sold from the country or countries of origin or export to a third country or countries, or on the constructed value of the product) and information on export prices or, where appropriate, on the prices at which the product is first resold to an independent buyer in the territory of the importing Member;</p> <p>(iv) information on the evolution of the volume of the allegedly dumped imports, the effect of these imports on prices of the like product in the domestic market and the consequent impact of the imports on the domestic industry, as demonstrated by relevant factors and indices having a bearing on the state of the domestic industry, such as those listed in paragraphs 2 and 4 of Article 3.</p> <p>5.3 The authorities shall examine the accuracy and adequacy of the evidence provided in the application to determine whether there is sufficient evidence to justify the initiation of an investigation.</p> <p>5.4 An investigation shall not be initiated pursuant to paragraph 1 unless the authorities have determined, on the</p>
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<p>does not receive any written application for an anti-dumping investigation, but has sufficient evidence of dumping, injury and causality between the two, it may decide to initiate the investigation.</p> <p>Article 19. MOFCOM shall publish the decision to initiate an investigation and notify the applicants, the known exporters and importers, the governments of an exporting countries (regions) and other interested organisations and parties (hereinafter collectively referred to as "the interested parties").</p> <p>As soon as the decision to initiate an investigation has been published, MOFCOM shall provide the full text of the application to the known exporters and the governments of the exporting countries (regions).</p> <p>Article 20. MOFCOM may conduct investigation and collect information from interested parties by, among others, sending questionnaires, using samples, holding public hearings and making on-the-spot verification.</p> <p>MOFCOM shall provide opportunities for all interested parties concerned to present their views and supporting arguments.</p> <p>MOFCOM may send its staff members to the countries (regions) concerned to carry out investigation if it deems necessary to do so, unless the countries (regions) concerned object to such an investigation.</p>	<p>(地区) 政府。</p> <p>第二十条 商务部可以采用问卷、抽样、听证会、现场核查等方式向利害关系方了解情况，进行调查。</p> <p>商务部应当为有关利害关系方提供陈述意见和论据的机会。</p> <p>商务部认为必要时，可以派出工作人员赴有关国家（地区）进行调查；但是，有关国家（地区）提出异议的除外。</p> <p>第二十一条 商务部进行调查时，利害关系方应当如实反映情况，提供有关资料。利害关系方不如实反映情况、提供有关资料的，或者没有在合理时间内提供必要信息的，或者以其他方式严重妨碍调查的，商务部可以根据已经获得的事实和可获得的最佳信息作出裁定。</p> <p>第二十二条 利害关系方认为其提供的资料泄露后将产生严重不利影响的，可以向商务部申请对该资料按保密资料处理。</p> <p>商务部认为保密申请有正当理由的，应当对利害关系方提供的资料按保密资料处理，同时要求利害关系方提供一份非保密的该资料</p>	<p>basis of an examination of the degree of support for, or opposition to, the application expressed¹³ by domestic producers of the like product, that the application has been made by or on behalf of the domestic industry.¹⁴ The application shall be considered to have been made "by or on behalf of the domestic industry" if it is supported by those domestic producers whose collective output constitutes more than 50 per cent of the total production of the like product produced by that portion of the domestic industry expressing either support for or opposition to the application. However, no investigation shall be initiated when domestic producers expressly supporting the application account for less than 25 per cent of total production of the like product produced by the domestic industry.</p> <p>5.5 The authorities shall avoid, unless a decision has been made to initiate an investigation, any publicizing of the application for the initiation of an investigation. However, after receipt of a properly documented application and before proceeding to initiate an investigation, the authorities shall notify the government of the exporting Member concerned.</p> <p>5.6 If, in special circumstances, the authorities concerned decide to initiate an investigation without having received a written application by or on behalf of a domestic industry for the initiation of such investigation, they shall proceed only if they have sufficient evidence of dumping, injury and a causal link, as described in paragraph 2, to justify the initiation of an investigation.</p> <p>5.7 The evidence of both dumping and injury shall be</p>
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¹³ In the case of fragmented industries involving an exceptionally large number of producers, authorities may determine support and opposition by using statistically valid sampling techniques.

¹⁴ Members are aware that in the territory of certain Members employees of domestic producers of the like product or representatives of those employees may make or support an application for an investigation under paragraph 1.

<p>Article 21. An interested party shall provide authentic information and relevant documentation to MOFCOM in the process of the investigation. In the event that any interested party does not provide authentic information and relevant documentation, or does not provide necessary information within a reasonable time-limit or significantly impedes the investigation in other ways, MOFCOM may make determinations on the basis of the facts already known and the best information available.</p> <p>Article 22. An interested party may request MOFCOM to treat the information it provided as confidential if it considers that any disclosure of such information would create significantly adverse effects.</p> <p>MOFCOM shall treat the information submitted by the interested party as confidential if they consider that the request for confidentiality is justifiable, and shall require the interested party to provide non-confidential summaries thereof.</p> <p>The confidential information shall not be disclosed without the permission of the interested party submitting it.</p> <p>Article 23. MOFCOM shall allow the applicant and interested parties to have access to the information relevant to the investigation, provided that the information has not been treated as confidential.</p> <p>Article 24. MOFCOM shall, on the basis of their findings, make a preliminary determination on dumping, injury, whether a causal link exists between dumping and injury, and publish the preliminary determinations.</p>	<p>概要。</p> <p>按保密资料处理的资料，未经提供资料的利害关系方同意，不得泄露。</p> <p>第二十三条 商务部应当允许申请人和利害关系方查阅本案有关资料；但是，属于按保密资料处理的除外。</p> <p>第二十四条 商务部根据调查结果，就倾销、损害和二者之间的因果关系是否成立作出初裁决定，并予以公告。</p> <p>第二十五条 初裁决定确定倾销、损害以及二者之间的因果关系成立的，商务部应当对倾销及倾销幅度、损害及损害程度继续进行调查，并根据调查结果作出终裁决定，予以公告。</p> <p>在作出终裁决定前，应当由商务部将终裁决定所依据的基本事实通知所有已知的利害关系方。</p> <p>第二十六条 反倾销调查，应当自立案调查决定公告之日起12个月内结束；特殊情况下可以延长，但延长期不得超过6个月。</p> <p>第二十七条 有下列情形之一的，反倾销调查应当终止，并由商务部予以公告：</p> <p>（一）申请人撤销申请的；</p>	<p>considered simultaneously (a) in the decision whether or not to initiate an investigation, and (b) thereafter, during the course of the investigation, starting on a date not later than the earliest date on which in accordance with the provisions of this Agreement provisional measures may be applied.</p> <p>5.8 An application under paragraph 1 shall be rejected and an investigation shall be terminated promptly as soon as the authorities concerned are satisfied that there is not sufficient evidence of either dumping or of injury to justify proceeding with the case. There shall be immediate termination in cases where the authorities determine that the margin of dumping is <i>de minimis</i>, or that the volume of dumped imports, actual or potential, or the injury, is negligible. The margin of dumping shall be considered to be <i>de minimis</i> if this margin is less than 2 per cent, expressed as a percentage of the export price. The volume of dumped imports shall normally be regarded as negligible if the volume of dumped imports from a particular country is found to account for less than 3 per cent of imports of the like product in the importing Member, unless countries which individually account for less than 3 per cent of the imports of the like product in the importing Member collectively account for more than 7 per cent of imports of the like product in the importing Member.</p> <p>5.9 An anti-dumping proceeding shall not hinder the procedures of customs clearance.</p> <p>5.10 Investigations shall, except in special circumstances, be concluded within one year, and in no case more than 18 months, after their initiation.</p>
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<p>Article 25. In cases where a preliminary determination on dumping, injury and the causal link between the two is affirmative, MOFCOM shall carry out further investigations on dumping, the margin of dumping, injury and its degree, and, on the basis of their findings, make final determinations respectively. The final determinations shall be published.</p> <p>Before the final determinations are made, MOFCOM shall inform all known interested parties of the essential facts on which the final determinations are based.</p> <p>Article 26. An anti-dumping investigation shall be concluded within 12 months from the date of publication of the decision to initiate the investigation, and the period may be extended in special circumstances, but in no case shall the extension be more than 6 months.</p> <p>Article 27. In any one of the following circumstances, an anti-dumping investigation shall be terminated and such termination shall be published by MOFCOM:</p> <p>(1) the application has been withdrawn by the applicant;</p> <p>(2) there is not sufficient evidence of the existence of dumping, injury and the causal link between the two;</p> <p>(3) the margin of dumping is less than 2 per cent;</p> <p>(4) the actual or potential volume of dumped imports or the injury is negligible;</p>	<p>(二) 没有足够证据证明存在倾销、损害或者二者之间有因果关系的;</p> <p>(三) 倾销幅度低于 2 % 的;</p> <p>(四) 倾销进口产品实际或者潜在的进口量或者损害属于可忽略不计的;</p> <p>(五) 商务部认为不适宜继续进行反倾销调查的。</p> <p>来自一个或者部分国家（地区）的被调查产品有前款第（二）、（三）、（四）项所列情形之一的，针对所涉产品的反倾销调查应当终止。</p>	
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<p>(5) other circumstances that MOFCOM considers not appropriate to continue the anti-dumping investigation.</p> <p>If the product under investigation imported from one country (region) or some countries (regions) falls under one of the circumstances set forth in Item 2, 3, or 4 of the preceding paragraph, the anti-dumping investigation on the said product shall be terminated.</p>		
		<p style="text-align: center;"><i>Article 6</i></p> <p style="text-align: center;"><i>Evidence</i></p> <p>6.1 All interested parties in an anti-dumping investigation shall be given notice of the information which the authorities require and ample opportunity to present in writing all evidence which they consider relevant in respect of the investigation in question.</p> <p>6.1.1 Exporters or foreign producers receiving questionnaires used in an anti-dumping investigation shall be given at least 30 days for reply.¹⁵ Due consideration should be given to any request for an extension of the 30-day period and, upon cause shown, such an extension should be granted whenever practicable.</p> <p>6.1.2 Subject to the requirement to protect confidential information, evidence presented in writing by one interested party shall be made</p>

¹⁵ As a general rule, the time-limit for exporters shall be counted from the date of receipt of the questionnaire, which for this purpose shall be deemed to have been received one week from the date on which it was sent to the respondent or transmitted to the appropriate diplomatic representative of the exporting Member or, in the case of a separate customs territory Member of the WTO, an official representative of the exporting territory.

		<p>available promptly to other interested parties participating in the investigation.</p> <p>6.1.3 As soon as an investigation has been initiated, the authorities shall provide the full text of the written application received under paragraph 1 of Article 5 to the known exporters¹⁶ and to the authorities of the exporting Member and shall make it available, upon request, to other interested parties involved. Due regard shall be paid to the requirement for the protection of confidential information, as provided for in paragraph 5.</p> <p>6.2 Throughout the anti-dumping investigation all interested parties shall have a full opportunity for the defence of their interests. To this end, the authorities shall, on request, provide opportunities for all interested parties to meet those parties with adverse interests, so that opposing views may be presented and rebuttal arguments offered. Provision of such opportunities must take account of the need to preserve confidentiality and of the convenience to the parties. There shall be no obligation on any party to attend a meeting, and failure to do so shall not be prejudicial to that party's case. Interested parties shall also have the right, on justification, to present other information orally.</p> <p>6.3 Oral information provided under paragraph 2 shall be taken into account by the authorities only in so far as it is</p>
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¹⁶ It being understood that, where the number of exporters involved is particularly high, the full text of the written application should instead be provided only to the authorities of the exporting Member or to the relevant trade association.

		<p>subsequently reproduced in writing and made available to other interested parties, as provided for in subparagraph 1.2.</p> <p>6.4 The authorities shall whenever practicable provide timely opportunities for all interested parties to see all information that is relevant to the presentation of their cases, that is not confidential as defined in paragraph 5, and that is used by the authorities in an anti-dumping investigation, and to prepare presentations on the basis of this information.</p> <p>6.5 Any information which is by nature confidential (for example, because its disclosure would be of significant competitive advantage to a competitor or because its disclosure would have a significantly adverse effect upon a 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 an investigation shall, upon good cause shown, be treated as such by the authorities. Such information shall not be disclosed without specific permission of the party submitting it.¹⁷</p> <p>6.5.1 The authorities shall require interested parties providing confidential information to furnish non-confidential summaries thereof. These summaries shall be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. In exceptional circumstances, such parties may indicate that such information is not susceptible of summary. In such exceptional</p>
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¹⁷ Members are aware that in the territory of certain Members disclosure pursuant to a narrowly-drawn protective order may be required.

		<p>circumstances, a statement of the reasons why summarization is not possible must be provided.</p> <p>6.5.2 If the authorities find that a request for confidentiality is not warranted and if the supplier of the information is either unwilling to make the information public or to authorize its disclosure in generalized or summary form, the authorities may disregard such information unless it can be demonstrated to their satisfaction from appropriate sources that the information is correct.¹⁸</p> <p>6.6 Except in circumstances provided for in paragraph 8, the authorities shall during the course of an investigation satisfy themselves as to the accuracy of the information supplied by interested parties upon which their findings are based.</p> <p>6.7 In order to verify information provided or to obtain further details, the authorities may carry out investigations in the territory of other Members as required, provided they obtain the agreement of the firms concerned and notify the representatives of the government of the Member in question, and unless that Member objects to the investigation. The procedures described in Annex I shall apply to investigations carried out in the territory of other Members. Subject to the requirement to protect confidential information, the authorities shall make the results of any such investigations available, or shall provide disclosure thereof pursuant to paragraph 9, to the firms to which they pertain and may make such results available to the applicants.</p> <p>6.8 In cases in which any interested party refuses access to, or otherwise does not provide, necessary information</p>
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¹⁸ Members agree that requests for confidentiality should not be arbitrarily rejected.

		<p>within a reasonable period or significantly impedes the investigation, preliminary and final determinations, affirmative or negative, may be made on the basis of the facts available. The provisions of Annex II shall be observed in the application of this paragraph.</p> <p>6.9 The authorities shall, before a final determination is made, inform all interested parties of the essential facts under consideration which form the basis for the decision whether to apply definitive measures. Such disclosure should take place in sufficient time for the parties to defend their interests.</p> <p>6.10 The authorities shall, as a rule, determine an individual margin of dumping for each known exporter or producer concerned of the product under investigation. In cases where the number of exporters, producers, importers or types of products involved is so large as to make such a determination impracticable, the authorities may limit their examination either to a reasonable number of interested parties or products by using samples which are statistically valid on the basis of information available to the authorities at the time of the selection, or to the largest percentage of the volume of the exports from the country in question which can reasonably be investigated.</p> <p>6.10.1 Any selection of exporters, producers, importers or types of products made under this paragraph shall preferably be chosen in consultation with and with the consent of the exporters, producers or importers concerned.</p> <p>6.10.2 In cases where the authorities have limited their examination, as</p>
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		<p>provided for in this paragraph, they shall nevertheless determine an individual margin of dumping for any exporter or producer not initially selected who submits the necessary information in time for that information to be considered during the course of the investigation, except where the number of exporters or producers is so large that individual examinations would be unduly burdensome to the authorities and prevent the timely completion of the investigation. Voluntary responses shall not be discouraged.</p> <p>6.11 For the purposes of this Agreement, "interested parties" shall include:</p> <ul style="list-style-type: none"> (i) an exporter or foreign producer or the importer of a product subject to investigation, or a trade or business association a majority of the members of which are producers, exporters or importers of such product; (ii) the government of the exporting Member; and (iii) a producer of the like product in the importing Member or a trade and business association a majority of the members of which produce the like product in the territory of the importing Member.
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<p>Chapter IV - Anti-dumping Measures</p> <p>Section I: Provisional Anti-dumping Measures</p> <p>Article 28. The following provisional anti-dumping measures may be applied if the preliminary determination establishes the existence of dumping and the injury caused by dumping to a domestic industry:</p> <p>(1) imposition of a provisional anti-dumping duty;</p>	<p>第四章 反倾销措施</p> <p>第一节 临时反倾销措施</p> <p>第二十八条 初裁决定确定倾销成立，并由此对国内产业造成损害的，可以采取下列临时反倾销措施：</p> <p>（一）征收临时反倾销税；</p>	<p><i>Article 7</i></p> <p><i>Provisional Measures</i></p> <p>7.1 Provisional measures may be applied only if:</p> <p>(i) an investigation has been initiated in accordance with the provisions of Article 5, a public notice has been given to that effect and interested parties have been given adequate opportunities to submit information and make comments;</p>

<p>(2) provision of deposit, bond or other forms of security.</p> <p>The amount of the provisional anti-dumping duty, cash deposit, bond or other forms of security provided shall not exceed the margin of dumping established in the preliminary determination.</p> <p>Article 29. The proposal imposing provisional anti-dumping duties shall be put forward by MOFCOM; on the basis of such a proposal the State Council Tariff Commission shall make a decision thereon. The decision shall be published by MOFCOM. The decision on the provision of deposit, bond or other forms of security shall be made and published by MOFCOM. The Customs shall implement the decision from the effective date set forth in the public notice.</p> <p>Article 30. The period for applying provisional anti-dumping measures shall not exceed 4 months from the effective date set forth in the public notice regarding the decision on provisional anti-dumping measures, and, in special circumstances, may be extended to 9 months.</p> <p>No provisional anti-dumping measures shall be applied within 60 days from the date of publication of the decision to initiate the investigation.</p>	<p>(二) 要求提供保证金、保函或者其他形式的担保。</p> <p>临时反倾销税税额或者提供的保证金、保函或者其他形式担保的金额，应当不超过初裁决定确定的倾销幅度。</p> <p>第二十九条 征收临时反倾销税，由商务部提出建议，国务院关税税则委员会根据商务部的建议作出决定，由商务部予以公告。要求提供保证金、保函或者其他形式的担保，由商务部作出决定并予以公告。海关自公告规定实施之日起执行。</p> <p>第三十条 临时反倾销措施实施的期限，自临时反倾销措施决定公告规定实施之日起，不超过4个月；在特殊情形下，可以延长至9个月。</p> <p>自反倾销立案调查决定公告之日起60天内，不得采取临时反倾销措施。</p>	<p>(ii) a preliminary affirmative determination has been made of dumping and consequent injury to a domestic industry; and</p> <p>(iii) the authorities concerned judge such measures necessary to prevent injury being caused during the investigation.</p> <p>7.2 Provisional measures may take the form of a provisional duty or, preferably, a security - by cash deposit or bond - equal to the amount of the anti-dumping duty provisionally estimated, being not greater than the provisionally estimated margin of dumping. Withholding of appraisement is an appropriate provisional measure, provided that the normal duty and the estimated amount of the anti-dumping duty be indicated and as long as the withholding of appraisement is subject to the same conditions as other provisional measures.</p> <p>7.3 Provisional measures shall not be applied sooner than 60 days from the date of initiation of the investigation.</p> <p>7.4 The application of provisional measures shall be limited to as short a period as possible, not exceeding four months or, on decision of the authorities concerned, upon request by exporters representing a significant percentage of the trade involved, to a period not exceeding six months. When authorities, in the course of an investigation, examine whether a duty lower than the margin of dumping would be sufficient to remove injury, these periods may be six and nine months, respectively.</p> <p>7.5 The relevant provisions of Article 9 shall be followed in the application of provisional measures.</p>
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<p>Section II: Price Undertakings</p> <p>Article 31. During the period of an anti-dumping investigation, an exporter of the dumped imports may offer price undertakings to MOFCOM to revise its prices or to cease exporting at dumped prices.</p> <p>MOFCOM may suggest price undertakings to the exporter.</p> <p>MOFCOM shall not force the exporter to enter into price undertakings.</p> <p>Article 32. The fact that exporters do not offer price undertakings, or do not accept any suggestion concerning price undertakings, shall in no way prejudice the investigation and determination of the anti-dumping case. MOFCOM has the right to determine that a threat of injury is more likely to be realized if the exporters continue dumping the imports.</p> <p>Article 33. If considering that price undertakings made by exporters are acceptable and conform to the public interests, MOFCOM may decide to suspend or terminate the anti-dumping investigation without applying provisional anti-dumping measures or imposing anti-dumping duties. The decision to suspend or terminate the anti-dumping investigation shall be published by MOFCOM.</p> <p>If MOFCOM does not accept a price undertaking, it shall provide the reasons therefore to the exporters</p>	<p>第二节 价格承诺</p> <p>第三十一条 倾销进口产品的出口经营者在反倾销调查期间，可以向商务部作出改变价格或者停止以倾销价格出口的价格承诺。</p> <p>商务部可以向出口经营者提出价格承诺的建议。</p> <p>商务部不得强迫出口经营者作出价格承诺。</p> <p>第三十二条 出口经营者不作出价格承诺或者不接受价格承诺的建议的，不妨碍对反倾销案件的调查和确定。出口经营者继续倾销进口产品的，商务部有权确定损害威胁更有可能出现。</p> <p>第三十三条 商务部认为出口经营者作出的价格承诺能够接受并符合公共利益的，可以决定中止或者终止反倾销调查，不采取临时反倾销措施或者征收反倾销税。中止或者终止反倾销调查的决定由商务部予以公告。</p> <p>商务部不接受价格承诺的，应当向有关出口经营者说明理由。</p> <p>商务部对倾销以及由倾销造成的损害作出肯定的初裁决定前，不得寻求或者接受价格承诺。</p>	<p><i>Article 8</i></p> <p><i>Price Undertakings</i></p> <p>8.1 Proceedings may¹⁹ be suspended or terminated without the imposition of provisional measures or anti-dumping duties upon receipt of satisfactory voluntary undertakings from any exporter to revise its prices or to cease exports to the area in question at dumped prices so that the authorities are satisfied that the injurious effect of the dumping is eliminated. Price increases under such undertakings shall not be higher than necessary to eliminate the margin of dumping. It is desirable that the price increases be less than the margin of dumping if such increases would be adequate to remove the injury to the domestic industry.</p> <p>8.2 Price undertakings shall not be sought or accepted from exporters unless the authorities of the importing Member have made a preliminary affirmative determination of dumping and injury caused by such dumping.</p> <p>8.3 Undertakings offered need not be accepted if the authorities consider their acceptance impractical, for example, if the number of actual or potential exporters is too great, or for other reasons, including reasons of general policy. Should the case arise and where practicable, the authorities shall provide to the exporter the reasons which have led them to consider acceptance of an undertaking as inappropriate, and shall, to the extent possible, give the exporter an opportunity to make comments thereon.</p> <p>8.4 If an undertaking is accepted, the investigation of dumping and injury shall nevertheless be completed if the</p>
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¹⁹ The word "may" shall not be interpreted to allow the simultaneous continuation of proceedings with the implementation of price undertakings except as provided in paragraph 4.

<p>concerned.</p> <p>Price undertakings shall not be sought or accepted unless MOFCOM have made a preliminary affirmative determination of dumping and injury caused by such dumping.</p> <p>Article 34. After the suspension or termination of the investigation according to the provisions of Paragraph 1, Article 33 of these Regulations, upon the request of the exporters, MOFCOM may continue the investigation of dumping and injury, or MOFCOM may continue the investigation of dumping and injury when it deems necessary.</p> <p>On the basis of the findings of the investigation prescribed in the preceding Paragraph, the price undertaking shall automatically lapse if a negative determination is made on dumping or injury, but shall remain in force if the determination made on dumping and injury is affirmative.</p> <p>Article 35. MOFCOM may require the exporter from whom an undertaking has been accepted to provide periodically information and documentation relevant to the fulfillment of such an undertaking, and make verification on such information and documentation.</p> <p>Article 36. In the case where an exporter violates his undertaking, MOFCOM may decide to resume the anti-dumping investigations immediately in accordance with the provisions of these Regulations, or on the basis of the best information available, decide to apply provisional measures and levy anti-dumping duties retroactively on the products imported within 90 days prior to the application of such provisional anti-</p>	<p>第三十四条 依照本条例第三十三条第一款规定中止或者终止反倾销调查后，应出口经营者请求，商务部应当对倾销和损害继续进行调查；或者商务部认为有必要的，可以对倾销和损害继续进行调查。</p> <p>根据前款调查结果，作出倾销或者损害的否定裁定的，价格承诺自动失效；作出倾销和损害的肯定裁定的，价格承诺继续有效。</p> <p>第三十五条 商务部可以要求出口经营者定期提供履行其价格承诺的有关情况、资料，并予以核实。</p> <p>第三十六条 出口经营者违反其价格承诺的，商务部依照本条例的规定，可以立即决定恢复反倾销调查；根据可获得的最佳信息，可以决定采取临时反倾销措施，并可以对实施临时反倾销措施前90天内进口的产品追溯征收反倾销税，但违反价格承诺前进口的产品除外。</p>	<p>exporter so desires or the authorities so decide. In such a case, if a negative determination of dumping or injury is made, the undertaking shall automatically lapse, except in cases where such a determination is due in large part to the existence of a price undertaking. In such cases, the authorities may require that an undertaking be maintained for a reasonable period consistent with the provisions of this Agreement. In the event that an affirmative determination of dumping and injury is made, the undertaking shall continue consistent with its terms and the provisions of this Agreement.</p> <p>8.5 Price undertakings may be suggested by the authorities of the importing Member, but no exporter shall be forced to enter into such undertakings. The fact that exporters do not offer such undertakings, or do not accept an invitation to do so, shall in no way prejudice the consideration of the case. However, the authorities are free to determine that a threat of injury is more likely to be realized if the dumped imports continue.</p> <p>8.6 Authorities of an importing Member may require any exporter from whom an undertaking has been accepted to provide periodically information relevant to the fulfilment of such an undertaking and to permit verification of pertinent data. In case of violation of an undertaking, the authorities of the importing Member may take, under this Agreement in conformity with its provisions, expeditious actions which may constitute immediate application of provisional measures using the best information available. In such cases, definitive duties may be levied in accordance with this Agreement on products entered for consumption not more than 90 days before the application of such provisional measures, except that any such retroactive assessment shall not apply to imports entered before the violation of the undertaking.</p>
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<p>dumping measures, except the products imported before the violation of the undertaking.</p>		
<p>Section III: Anti-dumping Duties</p> <p>Article 37. If a final determination establishes the existence of dumping and injury caused by dumping to a domestic industry, an anti-dumping duty may be imposed. Collection of anti-dumping duty shall conform to the public interests.</p> <p>Article 38. The proposal imposing an anti-dumping duty shall be put forward by MOFCOM; on the basis of such a proposal the State Council Tariff Commission shall make a decision which shall be published by MOFCOM. The Customs shall implement the decision from the effective date set forth in the public notice.</p> <p>Article 39. Anti-dumping duties shall be imposed on products imported after the date of publication of the final determination, with the exception of the circumstances set forth in Articles 36, 43 and 44 of these Regulations.</p> <p>Article 40. Anti-dumping duties shall be paid by importers of dumped imports.</p> <p>Article 41. Anti-dumping duties shall be determined separately on the basis of the margin of dumping established for each individual exporter. Where it is necessary to impose an anti-dumping duty on the dumped imports of an exporter who has not been included in the ongoing examination, an anti-dumping duty applicable to the exporter shall be determined in a reasonable way.</p>	<p>第三节 反倾销税</p> <p>第三十七条 终裁决定确定倾销成立，并由此对国内产业造成损害的，可以征收反倾销税。征收反倾销税应当符合公共利益。</p> <p>第三十八条 征收反倾销税，由商务部提出建议，国务院关税税则委员会根据商务部的建议作出决定，由商务部予以公告。海关自公告规定实施之日起执行。</p> <p>第三十九条 反倾销税适用于终裁决定公告之日后进口的产品，但属于本条例第三十六条、第四十三条、第四十四条规定的情形除外。</p> <p>第四十条 反倾销税的纳税人为倾销进口产品的进口经营者。</p> <p>第四十一条 反倾销税应当根据不同出口经营者的倾销幅度，分别确定。对未包括在审查范围内的出口经营者的倾销进口产品，需要征收反倾销税的，应当按照合理的方式确定对其适用的反倾销税。</p> <p>第四十二条 反倾销税税额不超过终裁决定确定的倾销幅度。</p> <p>第四十三条</p>	<p>Article 9</p> <p><i>Imposition and Collection of Anti-Dumping Duties</i></p> <p>9.1 The decision whether or not to impose an anti-dumping duty in cases where all requirements for the imposition have been fulfilled, and the decision whether the amount of the anti-dumping duty to be imposed shall be the full margin of dumping or less, are decisions to be made by the authorities of the importing Member. It is desirable that the imposition be permissive in the territory of all Members, and that the duty be less than the margin if such lesser duty would be adequate to remove the injury to the domestic industry.</p> <p>9.2 When an anti-dumping duty is imposed in respect of any product, such anti-dumping duty shall be collected in the appropriate amounts in each case, on a non-discriminatory basis on imports of such product from all sources found to be dumped and causing injury, except as to imports from those sources from which price undertakings under the terms of this Agreement have been accepted. The authorities shall name the supplier or suppliers of the product concerned. If, however, several suppliers from the same country are involved, and it is impracticable to name all these suppliers, the authorities may name the supplying country concerned. If several suppliers from more than one country are involved, the authorities may name either all the suppliers involved, or, if this is impracticable, all the supplying countries involved.</p> <p>9.3 The amount of the anti-dumping duty shall not exceed the margin of dumping as established under Article 2.</p> <p>9.3.1 When the amount of the</p>

<p>Article 42. The amount of the anti-dumping duty shall not exceed the margin of dumping established in a final determination.</p> <p>Article 43. In the case where a final determination establishes the existence of a material injury, and provisional anti-dumping measures have been applied prior to the final determination, anti-dumping duties may be levied retroactively for the period for which provisional anti-dumping measures have been applied.</p> <p>In the case where a final determination establishes the existence of a threat of material injury, and provisional anti-dumping measures have been applied in the situation that the absence of such provisional anti-dumping measures would have lead to a determination of injury, anti-dumping duties may be levied retroactively for the period for which provisional anti-dumping measures have been applied.</p> <p>If the definitive anti-dumping duty determined in a final determination is higher than the provisional anti-dumping duty paid or payable, or the amount estimated for the purpose of the security, the difference shall not be collected; if the definitive duty is lower than the provisional anti-dumping duty paid or payable, or the amount estimated for the purpose of the security, the difference shall be refunded or the duty recalculated, as the case may be.</p> <p>Article 44. When the following two circumstances exist simultaneously, an anti-dumping duty may be retroactively levied on products imported not more</p>	<p>终裁决定确定存在实质损害，并在此前已经采取临时反倾销措施的，反倾销税可以对已经实施临时反倾销措施的期间追溯征收。</p> <p>终裁决定确定存在实质损害威胁，在先前不采取临时反倾销措施将会导致后来作出实质损害裁定的情况下已经采取临时反倾销措施的，反倾销税可以对已经实施临时反倾销措施的期间追溯征收。</p> <p>终裁决定确定的反倾销税，高于已付或者应付的临时反倾销税或者为担保目的而估计的金额，差额部分不予收取；低于已付或者应付的临时反倾销税或者为担保目的而估计的金额，差额部分应当根据具体情况予以退还或者重新计算税额。</p> <p>第四十四条 下列两种情形并存的，可以对实施临时反倾销措施之日前90天内进口的产品追溯征收反倾销税，但立案调查前进口的产品除外：</p> <p>（一）倾销进口产品有对国内产业造成损害的倾销历史，或者该产品的进口经营者知道或者应当知道出口经营者实施倾销并且倾销对国内产业将造成损害的；</p> <p>（二）倾销进口产品在短期内大量进口，并且可能会严重破坏即将实施的反倾销税的补救效果的。</p>	<p>anti-dumping duty is assessed on a retrospective basis, the determination of the final liability for payment of anti-dumping duties shall take place as soon as possible, normally within 12 months, and in no case more than 18 months, after the date on which a request for a final assessment of the amount of the anti-dumping duty has been made.²⁰ Any refund shall be made promptly and normally in not more than 90 days following the determination of final liability made pursuant to this sub-paragraph. In any case, where a refund is not made within 90 days, the authorities shall provide an explanation if so requested.</p> <p>9.3.2 When the amount of the anti-dumping duty is assessed on a prospective basis, provision shall be made for a prompt refund, upon request, of any duty paid in excess of the margin of dumping. A refund of any such duty paid in excess of the actual margin of dumping shall normally take place within 12 months, and in no case more than 18 months, after the date on which a request for a refund, duly supported by evidence, has been made by an importer of the product subject to</p>
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²⁰ It is understood that the observance of the time-limits mentioned in this subparagraph and in subparagraph 3.2 may not be possible where the product in question is subject to judicial review proceedings.

<p>than 90 days prior to the date of application of provisional anti-dumping measures, except the products imported before the initiation of the investigation:</p> <p>(1) there is a dumping history of the dumped imports causing injury to the domestic industry, or the importer of the dumped imports was, or should have been, aware that the exporters practice dumping and that such dumping would cause injury to the domestic industry;</p> <p>(2) the dumped imports were massively imported in a short time and were likely to seriously undermine the remedial effect of the definitive anti-dumping duty to be applied.</p> <p>After launching an investigation, MOFCOM may take necessary measures, such as imposing import registration onto related imported products, where sufficient evidence exists pointing to the existence of the two circumstances listed above at the same time, in order to collect retroactive anti-dumping duties.</p> <p>Article 45. Where a final determination decides not to levy an anti-dumping duty, or does not decide a retroactive levy of an anti-dumping duty, the provisional anti-dumping duty collected and any deposit made during the period of the application of provisional anti-dumping measures shall be refunded, and any bonds or other forms of security released.</p> <p>Article 46. If an importer of dumped imports can provide evidence to prove that the anti-dumping duty already paid is higher than the margin of dumping, he can apply to MOFCOM for duty refund. MOFCOM</p>	<p>商务部发起调查后, 有充分证据证明前款所列两种情形并存的, 可以对有关进口产品采取进口登记等必要措施, 以便追溯征收反倾销税。</p> <p>第四十五条 终裁决定确定不征收反倾销税的, 或者终裁决定未确定追溯征收反倾销税的, 已征收的临时反倾销税、已收取的保证金应当予以退还, 保函或者其他形式的担保应当予以解除。</p> <p>第四十六条 倾销进口产品的进口经营者有证据证明已经缴纳的倾销税税额超过倾销幅度的, 可以向商务部提出退税申请; 商务部经审查、核实并提出建议, 国务院关税税则委员会根据商务部的建议可以作出退税决定, 由海关执行。</p> <p>第四十七条 进口产品被征收反倾销税后, 在调查期内未向中华人民共和国出口该产品的的新出口经营者, 能证明其与被征收反倾销税的出口经营者无关联的, 可以向商务部申请单独确定其倾销幅度。商务部应当迅速进行审查并作出终裁决定。在审查期间, 可以采取本条例第二十八条第一款第(二)项规定的措施, 但不得对该产品征收反倾销税。</p>	<p>the anti-dumping duty. The refund authorized should normally be made within 90 days of the above-noted decision.</p> <p>9.3.3 In determining whether and to what extent a reimbursement should be made when the export price is constructed in accordance with paragraph 3 of Article 2, authorities should take account of any change in normal value, any change in costs incurred between importation and resale, and any movement in the resale price which is duly reflected in subsequent selling prices, and should calculate the export price with no deduction for the amount of anti-dumping duties paid when conclusive evidence of the above is provided.</p> <p>9.4 When the authorities have limited their examination in accordance with the second sentence of paragraph 10 of Article 6, any anti-dumping duty applied to imports from exporters or producers not included in the examination shall not exceed:</p> <ul style="list-style-type: none"> (i) the weighted average margin of dumping established with respect to the selected exporters or producers or, (ii) where the liability for payment of anti-dumping duties is calculated on the basis of a prospective normal value, the difference between the weighted average normal value
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<p>shall, upon examination and verification of the application, make a proposal to the State Council Tariff Commission, who shall make a decision to reimburse the extra duty on the basis of the proposal made by MOFCOM, and the Customs shall implement the decision.</p> <p>Article 47. After an imported product is subject to an anti-dumping duty, new exporters who have not exported the product in question to the People's Republic of China within the period of investigation, may apply to MOFCOM for a separate determination of the margin of dumping, provided that they can show that they are not related to any of the exporters who are subject to the anti-dumping duty.</p> <p>MOFCOM shall promptly carry out a review and make a final determination. No anti-dumping duties shall be levied on imports from such exporters or producers while the review is being carried out, but measures may be taken as provided for in Item 2, Paragraph 1 of Article 28 of these Regulations.</p>		<p>of the selected exporters or producers and the export prices of exporters or producers not individually examined,</p> <p>provided that the authorities shall disregard for the purpose of this paragraph any zero and <i>de minimis</i> margins and margins established under the circumstances referred to in paragraph 8 of Article 6. The authorities shall apply individual duties or normal values to imports from any exporter or producer not included in the examination who has provided the necessary information during the course of the investigation, as provided for in subparagraph 10.2 of Article 6.</p> <p>9.5 If a product is subject to anti-dumping duties in an importing Member, the authorities shall promptly carry out a review for the purpose of determining individual margins of dumping for any exporters or producers in the exporting country in question who have not exported the product to the importing Member during the period of investigation, provided that these exporters or producers can show that they are not related to any of the exporters or producers in the exporting country who are subject to the anti-dumping duties on the product. Such a review shall be initiated and carried out on an accelerated basis, compared to normal duty assessment and review proceedings in the importing Member. No anti-dumping duties shall be levied on imports from such exporters or producers while the review is being carried out. The authorities may, however, withhold appraisal and/or request guarantees to ensure that, should such a review result in a determination of dumping in respect of such producers or exporters, anti-dumping duties can be levied retroactively to the date of the initiation of the review.</p>
		<p>Article 10</p>

		<p style="text-align: center;"><i>Retroactivity</i></p> <p>10.1 Provisional measures and anti-dumping duties shall only be applied to products which enter for consumption after the time when the decision taken under paragraph 1 of Article 7 and paragraph 1 of Article 9, respectively, enters into force, subject to the exceptions set out in this Article.</p> <p>10.2 Where a final determination of injury (but not of a threat thereof or of a material retardation of the establishment of an industry) is made or, in the case of a final determination of a threat of injury, where the effect of the dumped imports would, in the absence of the provisional measures, have led to a determination of injury, anti-dumping duties may be levied retroactively for the period for which provisional measures, if any, have been applied.</p> <p>10.3 If the definitive anti-dumping duty is higher than the provisional duty paid or payable, or the amount estimated for the purpose of the security, the difference shall not be collected. If the definitive duty is lower than the provisional duty paid or payable, or the amount estimated for the purpose of the security, the difference shall be reimbursed or the duty recalculated, as the case may be.</p> <p>10.4 Except as provided in paragraph 2, where a determination of threat of injury or material retardation is made (but no injury has yet occurred) a definitive anti-dumping duty may be imposed only from the date of the determination of threat of injury or material retardation, and any cash deposit made during the period of the application of provisional measures shall be refunded and any bonds released in an expeditious manner.</p> <p>10.5 Where a final determination is negative, any cash deposit made during the period of the application of</p>
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		<p>provisional measures shall be refunded and any bonds released in an expeditious manner.</p> <p>10.6 A definitive anti-dumping duty may be levied on products which were entered for consumption not more than 90 days prior to the date of application of provisional measures, when the authorities determine for the dumped product in question that:</p> <ul style="list-style-type: none"> (i) there is a history of dumping which caused injury or that the importer was, or should have been, aware that the exporter practises dumping and that such dumping would cause injury, and (ii) the injury is caused by massive dumped imports of a product in a relatively short time which in light of the timing and the volume of the dumped imports and other circumstances (such as a rapid build-up of inventories of the imported product) is likely to seriously undermine the remedial effect of the definitive anti-dumping duty to be applied, provided that the importers concerned have been given an opportunity to comment. <p>10.7 The authorities may, after initiating an investigation, take such measures as the withholding of appraisement or assessment as may be necessary to collect anti-dumping duties retroactively, as provided for in paragraph 6, once they have sufficient evidence that the conditions set forth in that paragraph are satisfied.</p> <p>10.8 No duties shall be levied retroactively pursuant to paragraph 6 on products entered for consumption prior to the date of initiation of the investigation.</p>
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<p>Chapter V Duration and Review of Anti-dumping duties and price undertakings</p> <p>Article 48. The period for the levy of an anti-dumping duty and fulfillment of a price undertaking shall not exceed 5 years. However, the period for the levy of the anti-dumping duty may be extended as appropriate if, as a result of the review, it is determined that the termination of the duty would be likely to lead to continuation or recurrence of dumping and injury.</p> <p>Article 49. After an anti-dumping duty has taken effect, MOFCOM may decide on justifiable grounds to review the need for the continued imposition of the anti-dumping duty; such a review may also be conducted, provided that a reasonable period of time has elapsed, upon request by any interested party and on the basis of examination of the relevant evidence submitted by the interested party.</p> <p>After a price undertaking has taken effect, MOFCOM may, on justifiable grounds, decide to review the need for the continuance of the price undertaking; such a review may also be conducted, provided that a reasonable period of time has elapsed, upon request by any interested party and on the basis of examination of the relevant evidence submitted by the interested party.</p> <p>Article 50. On the basis of the findings of a review, MOFCOM shall, in accordance with the provisions of these Regulations, make a proposal on the retention,</p>	<p>第五章 反倾销税和价格承诺的期限与复审</p> <p>第四十八条 反倾销税的征收期限和价格承诺的履行期限不超过 5 年；但是，经复审确定终止征收反倾销税有可能导致倾销和损害的继续或者再度发生的，反倾销税的征收期限可以适当延长。</p> <p>第四十九条 反倾销税生效后，商务部可以在有正当理由的情况下，决定对继续征收反倾销税的必要性进行复审；也可以在经过一段合理时间，应利害关系方的请求并对利害关系方提供的相应证据进行审查后，决定对继续征收反倾销税的必要性进行复审。</p> <p>价格承诺生效后，商务部可以在有正当理由的情况下，决定对继续履行价格承诺的必要性进行复审；也可以在经过一段合理时间，应利害关系方的请求并对利害关系方提供的相应证据进行审查后，决定对继续履行价格承诺的必要性进行复审。</p> <p>第五十条 根据复审结果，由商务部依照本条例的规定提出保留、修改或者取消反倾销税的建议，国务院关税税则委员会根据商务部的建议作出决定，由商务部予以公告；或者由商务部依照本条例的规定，作出保留、修改或者取消价格承诺的决定并予以公告。</p> <p>第五十一条</p>	<p>Article 11</p> <p><i>Duration and Review of Anti-Dumping Duties and Price Undertakings</i></p> <p>11.1 An anti-dumping duty shall remain in force only as long as and to the extent necessary to counteract dumping which is causing injury.</p> <p>11.2 The authorities shall review the need for the continued imposition of the duty, where warranted, on their own initiative or, provided that a reasonable period of time has elapsed since the imposition of the definitive anti-dumping duty, upon request by any interested party which submits positive information substantiating the need for a review.²¹ Interested parties shall have the right to request the authorities to examine whether the continued imposition of the duty is necessary to offset dumping, whether the injury would be likely to continue or recur if the duty were removed or varied, or both. If, as a result of the review under this paragraph, the authorities determine that the anti-dumping duty is no longer warranted, it shall be terminated immediately.</p> <p>11.3 Notwithstanding the provisions of paragraphs 1 and 2, any definitive anti-dumping duty shall be terminated on a date not later than five years from its imposition (or from the date of the most recent review under paragraph 2 if that review has covered both dumping and injury, or under this paragraph), unless the authorities determine, in a review initiated before that date on their own initiative or upon a duly substantiated request made by or on behalf of the</p>
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²¹ A determination of final liability for payment of anti-dumping duties, as provided for in paragraph 3 of Article 9, does not by itself constitute a review within the meaning of this Article.

<p>revision, or termination of an anti-dumping duty, and on the basis of such a proposal the State Council Tariff Commission shall, in light of the proposal made by MOFCOM, make a decision which shall be published by MOFCOM. MOFCOM may make a decision on the retention, revision, or termination of the price undertaking and publish the decision in accordance with the provisions of these Regulations.</p> <p>Article 51. The review proceedings shall be conducted with reference to the relevant provisions of these Regulations on anti-dumping investigation.</p> <p>Any review shall be concluded within 12 months from the date of the decision of initiation of such a review.</p> <p>Article 52. During the period of review, the review proceedings shall not impede the application of anti-dumping measures.</p>	<p>复审程序参照本条例关于反倾销调查的有关规定执行。</p> <p>复审期限自决定复审开始之日起，不超过12个月。</p> <p>第五十二条 在复审期间，复审程序不妨碍反倾销措施的实施。</p>	<p>domestic industry within a reasonable period of time prior to that date, that the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury.²² The duty may remain in force pending the outcome of such a review.</p> <p>11.4 The provisions of Article 6 regarding evidence and procedure shall apply to any review carried out under this Article. Any such review shall be carried out expeditiously and shall normally be concluded within 12 months of the date of initiation of the review.</p> <p>11.5 The provisions of this Article shall apply <i>mutatis mutandis</i> to price undertakings accepted under Article 8.</p>
<p>Article 54. A public notice issued under these Regulations shall contain, inter alia, important information, facts, reasoning, legal basis, findings and conclusions, etc.</p>	<p>第五十四条 依照本条例作出的公告，应当载明重要的情况、事实、理由、依据、结果和结论等内容。</p>	<p style="text-align: center;"><i>Article 12</i></p> <p style="text-align: center;"><i>Public Notice and Explanation of Determinations</i></p> <p>12.1 When the authorities are satisfied that there is sufficient evidence to justify the initiation of an anti-dumping investigation pursuant to Article 5, the Member or Members the products of which are subject to such investigation and other interested parties known to the investigating authorities to have an interest therein shall be notified and a public notice shall be given.</p> <p style="text-align: right;">12.1.1 A public notice of the initiation of an</p>

²² When the amount of the anti-dumping duty is assessed on a retrospective basis, a finding in the most recent assessment proceeding under subparagraph 3.1 of Article 9 that no duty is to be levied shall not by itself require the authorities to terminate the definitive duty.

		<p>investigation shall contain, or otherwise make available through a separate report²³, adequate information on the following:</p> <ul style="list-style-type: none"> (i) the name of the exporting country or countries and the product involved; (ii) the date of initiation of the investigation; (iii) the basis on which dumping is alleged in the application; (iv) a summary of the factors on which the allegation of injury is based; (v) the address to which representations by interested parties should be directed; (vi) the time-limits allowed to interested parties for making their views known. <p>12.2 Public notice shall be given of any preliminary or final determination, whether affirmative or negative, of any decision to accept an undertaking pursuant to Article 8, of the termination of such an undertaking, and of the termination of a definitive anti-dumping duty. Each such notice shall set forth, or otherwise make available through a separate report, in sufficient detail the findings and conclusions reached on all issues of fact and law considered material by the investigating authorities. All such notices and reports shall be forwarded to the Member or Members the products of which are subject to such determination or undertaking and to other interested</p>
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²³ Where authorities provide information and explanations under the provisions of this Article in a separate report, they shall ensure that such report is readily available to the public.

		<p>parties known to have an interest therein.</p> <p>12.2.1 A public notice of the imposition of provisional measures shall set forth, or otherwise make available through a separate report, sufficiently detailed explanations for the preliminary determinations on dumping and injury and shall refer to the matters of fact and law which have led to arguments being accepted or rejected. Such a notice or report shall, due regard being paid to the requirement for the protection of confidential information, contain in particular:</p> <ul style="list-style-type: none"> (i) the names of the suppliers, or when this is impracticable, the supplying countries involved; (ii) a description of the product which is sufficient for customs purposes; (iii) the margins of dumping established and a full explanation of the reasons for the methodology used in the establishment and comparison of the export price and the normal value under Article 2; (iv) considerations relevant to the injury determination as set out in Article 3; (v) the main reasons leading to the determination.
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<p>Article 53. Where any party is not satisfied with a final determination made under Article 25 of these Regulations, or not satisfied with a decision on whether or not to impose an anti-dumping duty, retroactive imposition of an anti-dumping duty, reimbursement of an anti-dumping duty or imposition of an anti-dumping duty on new exporters made under Chapter IV of these Regulations, or not satisfied with the review findings made under Chapter V of these Regulations, it may, in accordance with the law, apply for administrative reconsideration or file a lawsuit in the people's court.</p>	<p>第五十三条 对依照本条例第二十五条作出的终裁决定不服的，对依照本条例第四章作出的是否征收反倾销税的决定以及追溯征收、退税、对新出口经营者征税的决定不服的，或者对依照本条例第五章作出的复审决定不服的，可以依法申请行政复议，也可以依法向人民法院提起诉讼。</p>	<p style="text-align: center;"><i>Article 13</i></p> <p style="text-align: center;"><i>Judicial Review</i></p> <p>Each Member whose national legislation contains provisions on anti-dumping measures shall maintain judicial, arbitral or administrative tribunals or procedures for the purpose, <i>inter alia</i>, of the prompt review of administrative actions relating to final determinations and reviews of determinations within the meaning of Article 11. Such tribunals or procedures shall be independent of the authorities responsible for the determination or review in question.</p>
		<p style="text-align: center;"><i>Article 14</i></p> <p style="text-align: center;"><i>Anti-Dumping Action on Behalf of a Third Country</i></p> <p>14.1 An application for anti-dumping action on behalf of a third country shall be made by the authorities of the third country requesting action.</p> <p>14.2 Such an application shall be supported by price information to show that the imports are being dumped and by detailed information to show that the alleged dumping is causing injury to the domestic industry concerned in the third country. The government of the third country shall afford all assistance to the authorities of the importing country to obtain any further information which the latter may require.</p> <p>14.3 In considering such an application, the authorities of</p>

		<p>the importing country shall consider the effects of the alleged dumping on the industry concerned as a whole in the third country; that is to say, the injury shall not be assessed in relation only to the effect of the alleged dumping on the industry's exports to the importing country or even on the industry's total exports.</p> <p>14.4 The decision whether or not to proceed with a case shall rest with the importing country. If the importing country decides that it is prepared to take action, the initiation of the approach to the Council for Trade in Goods seeking its approval for such action shall rest with the importing country.</p>
		<p style="text-align: center;"><i>Article 15</i></p> <p style="text-align: center;"><i>Developing Country Members</i></p> <p>It is recognized that special regard must be given by developed country Members to the special situation of developing country Members when considering the application of anti-dumping measures under this Agreement. Possibilities of constructive remedies provided for by this Agreement shall be explored before applying anti-dumping duties where they would affect the essential interests of developing country Members.</p>
		<p style="text-align: center;"><i>Article 16</i></p> <p style="text-align: center;"><i>Committee on Anti-Dumping Practices</i></p> <p>16.1 There is hereby established a Committee on Anti-Dumping Practices (referred to in this Agreement as the "Committee") composed of representatives from each of the Members. The Committee shall elect its own Chairman and shall meet not less than twice a year and otherwise as envisaged by relevant provisions of this Agreement at the</p>

		<p>request of any Member. The Committee shall carry out responsibilities as assigned to it under this Agreement or by the Members and it shall afford Members the opportunity of consulting on any matters relating to the operation of the Agreement or the furtherance of its objectives. The WTO Secretariat shall act as the secretariat to the Committee.</p> <p>16.2 The Committee may set up subsidiary bodies as appropriate.</p> <p>16.3 In carrying out their functions, the Committee and any subsidiary bodies may consult with and seek information from any source they deem appropriate. However, before the Committee or a subsidiary body seeks such information from a source within the jurisdiction of a Member, it shall inform the Member involved. It shall obtain the consent of the Member and any firm to be consulted.</p> <p>16.4 Members shall report without delay to the Committee all preliminary or final anti-dumping actions taken. Such reports shall be available in the Secretariat for inspection by other Members. Members shall also submit, on a semi-annual basis, reports of any anti-dumping actions taken within the preceding six months. The semi-annual reports shall be submitted on an agreed standard form.</p> <p>16.5 Each Member shall notify the Committee (a) which of its authorities are competent to initiate and conduct investigations referred to in Article 5 and (b) its domestic procedures governing the initiation and conduct of such investigations.</p> <p style="text-align: center;"><i>Article 17</i></p> <p style="text-align: center;"><i>Consultation and Dispute Settlement</i></p> <p>17.1 Except as otherwise provided herein, the Dispute</p>
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		<p>to it, directly or indirectly, under this Agreement has been nullified or impaired, or that the achieving of the objectives of the Agreement is being impeded, and</p> <p>(ii) the facts made available in conformity with appropriate domestic procedures to the authorities of the importing Member.</p> <p>17.6 In examining the matter referred to in paragraph 5:</p> <p>(i) in its assessment of the facts of the matter, the panel shall determine whether the authorities' establishment of the facts was proper and whether their evaluation of those facts was unbiased and objective. If the establishment of the facts was proper and the evaluation was unbiased and objective, even though the panel might have reached a different conclusion, the evaluation shall not be overturned;</p> <p>(ii) the panel shall interpret the relevant provisions of the Agreement in accordance with customary rules of interpretation of public international law. Where the panel finds that a relevant provision of the Agreement admits of more than one permissible interpretation, the panel shall find the authorities' measure to be in conformity with the Agreement if it rests upon one of those permissible interpretations.</p> <p>17.7 Confidential information provided to the panel shall not be disclosed without formal authorization from the</p>
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		<p>person, body or authority providing such information. Where such information is requested from the panel but release of such information by the panel is not authorized, a non-confidential summary of the information, authorized by the person, body or authority providing the information, shall be provided.</p>
<p>Chapter VI - Supplementary Provisions</p> <p>Article 55. MOFCOM may take appropriate measures to prevent the circumvention of anti-dumping measures.</p> <p>Article 56. Where a country (region) discriminatorily imposes anti-dumping measures on the exports from the People's Republic of China, China may, on the basis of the actual situations, take corresponding measures against that country (region).</p> <p>Article 57. MOFCOM is responsible for foreign-related consultations, notification and dispute settlements concerning anti-dumping activities.</p> <p>Article 58. MOFCOM may, in accordance with these Regulations, formulate specific implementing measures.</p> <p>Article 59. These Regulations shall be effective as of 1 January 2002. The provisions on anti-dumping contained in the Regulations of the People's Republic of China on Anti-dumping and Anti-subsidy promulgated by the State Council on 25 March 1997</p>	<p>第六章 附 则</p> <p>第五十五条 商务部可以采取适当措施，防止规避反倾销措施的行为。</p> <p>第五十六条 任何国家（地区）对中华人民共和国的出口产品采取歧视性反倾销措施的，中华人民共和国可以根据实际情况对该国家（地区）采取相应的措施。</p> <p>第五十七条 商务部负责与反倾销有关的对外磋商、通知和争端解决事宜。</p> <p>第五十八条 商务部可以根据本条例制定有关具体实施办法。</p>	<p>PART III</p> <p>Article 18</p> <p>Final Provisions</p> <p>18.1 No specific action against dumping of exports from another Member can be taken except in accordance with the provisions of GATT 1994, as interpreted by this Agreement.²⁴</p> <p>18.2 Reservations may not be entered in respect of any of the provisions of this Agreement without the consent of the other Members.</p> <p>18.3 Subject to subparagraphs 3.1 and 3.2, the provisions of this Agreement shall apply to investigations, and reviews of existing measures, initiated pursuant to applications which have been made on or after the date of entry into force for a Member of the WTO Agreement.</p> <p>18.3.1 With respect to the calculation of margins of dumping in refund procedures under paragraph 3 of Article 9, the rules used in the most recent determination or review of</p>

²⁴ This is not intended to preclude action under other relevant provisions of GATT 1994, as appropriate.

<p>shall be repealed simultaneously.</p>		<p>dumping shall apply.</p> <p>18.3.2 For the purposes of paragraph 3 of Article 11, existing anti-dumping measures shall be deemed to be imposed on a date not later than the date of entry into force for a Member of the WTO Agreement, except in cases in which the domestic legislation of a Member in force on that date already included a clause of the type provided for in that paragraph.</p> <p>18.4 Each Member shall take all necessary steps, of a general or particular character, to ensure, not later than the date of entry into force of the WTO Agreement for it, the conformity of its laws, regulations and administrative procedures with the provisions of this Agreement as they may apply for the Member in question.</p> <p>18.5 Each Member shall inform the Committee of any changes in its laws and regulations relevant to this Agreement and in the administration of such laws and regulations.</p> <p>18.6 The Committee shall review annually the implementation and operation of this Agreement taking into account the objectives thereof. The Committee shall inform annually the Council for Trade in Goods of developments during the period covered by such reviews.</p> <p>18.7 The Annexes to this Agreement constitute an integral part thereof.</p>
		<p>ANNEX I</p>

		<p style="text-align: center;">PROCEDURES FOR ON-THE-SPOT INVESTIGATIONS PURSUANT TO PARAGRAPH 7 OF ARTICLE 6</p> <ol style="list-style-type: none"> 1. Upon initiation of an investigation, the authorities of the exporting Member and the firms known to be concerned should be informed of the intention to carry out on-the-spot investigations. 2. If in exceptional circumstances it is intended to include non-governmental experts in the investigating team, the firms and the authorities of the exporting Member should be so informed. Such non-governmental experts should be subject to effective sanctions for breach of confidentiality requirements. 3. It should be standard practice to obtain explicit agreement of the firms concerned in the exporting Member before the visit is finally scheduled. 4. As soon as the agreement of the firms concerned has been obtained, the investigating authorities should notify the authorities of the exporting Member of the names and addresses of the firms to be visited and the dates agreed. 5. Sufficient advance notice should be given to the firms in question before the visit is made. 6. Visits to explain the questionnaire should only be made at the request of an exporting firm. Such a visit may only be made if (a) the authorities of the importing Member notify the representatives of the Member in question and (b) the latter do not object to the visit. 7. As the main purpose of the on-the-spot investigation is to verify information provided or to obtain further details, it
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		<p style="text-align: center;">ANNEX II</p> <p style="text-align: center;">BEST INFORMATION AVAILABLE IN TERMS OF PARAGRAPH 8 OF ARTICLE 6</p> <p>1. As soon as possible after the initiation of the investigation, the investigating authorities should specify in detail the information required from any interested party, and the manner in which that information should be structured by the interested party in its response. The authorities should also ensure that the party is aware that if information is not supplied within a reasonable time, the authorities will be free to make determinations on the basis of the facts available, including those contained in the application for the initiation of the investigation by the domestic industry.</p> <p>2. The authorities may also request that an interested party provide its response in a particular medium (e.g. computer tape) or computer language. Where such a request</p>

		<p>is made, the authorities should consider the reasonable ability of the interested party to respond in the preferred medium or computer language, and should not request the party to use for its response a computer system other than that used by the party. The authority should not maintain a request for a computerized response if the interested party does not maintain computerized accounts and if presenting the response as requested would result in an unreasonable extra burden on the interested party, e.g. it would entail unreasonable additional cost and trouble. The authorities should not maintain a request for a response in a particular medium or computer language if the interested party does not maintain its computerized accounts in such medium or computer language and if presenting the response as requested would result in an unreasonable extra burden on the interested party, e.g. it would entail unreasonable additional cost and trouble.</p> <p>3. All information which is verifiable, which is appropriately submitted so that it can be used in the investigation without undue difficulties, which is supplied in a timely fashion, and, where applicable, which is supplied in a medium or computer language requested by the authorities, should be taken into account when determinations are made. If a party does not respond in the preferred medium or computer language but the authorities find that the circumstances set out in paragraph 2 have been satisfied, the failure to respond in the preferred medium or computer language should not be considered to significantly impede the investigation.</p> <p>4. Where the authorities do not have the ability to process information if provided in a particular medium (e.g. computer tape), the information should be supplied in the form of written material or any other form acceptable to the authorities.</p>
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