

# LAW OF GEORGIA

## ON THE INTRODUCTION OF ANTI-DUMPING MEASURES IN TRADE

### Chapter I – General Provisions

#### Article 1 – Purpose and scope of the Law

1. The purpose of this Law is to protect local industry from import dumping in the customs territory of Georgia (except for free industrial zones).
2. In accordance with the principles and provisions of the World Trade Organisation, this Law defines the main conditions and rules for introducing anti-dumping measures during import dumping in the customs territory of Georgia.

#### Article 2 – Definition of terms used in the Law

For the purposes of this Law, the terms used herein have the following meanings:

- a) local industry – all manufacturers who produce like products in the customs territory of Georgia (except for free industrial zones), or a set of manufacturers of like products whose total share of production makes up the main part of total local production, and a set of the rest of manufacturers if the manufacturers of like products are, at the same time, importers of an object under investigation, or persons related to the importer or exporter of an object under investigation;
- b) related persons – for the purposes of the definition of a local industry, persons shall be deemed to be related persons if:
  - b.a) one person controls another person directly, or indirectly;
  - b.b) both persons are controlled by a third person directly, or indirectly;
  - b.c) both persons control a third person directly, or indirectly; in addition, it is doubtful that such a relationship would ensure behaviour on the part of a related manufacturer which is different from the behaviour of a non-related manufacturer. For the purposes of this sub-paragraph, it shall be deemed that one person controls another person when the first person, legally or operationally, holds a position enabling him/her to restrict or instruct the other person;
- c) anti-dumping measure – a preliminary anti-dumping measure and/or a special anti-dumping tariff;
- d) preliminary anti-dumping measure – an anti-dumping measure for restricting import dumping in the customs territory of Georgia, which is introduced in the form of a preliminary anti-dumping tariff and/or collateral to protect local industry from import dumping during the period of an investigation;
- e) special anti-dumping tariff – an anti-dumping measure for restricting import dumping in the customs territory of Georgia, which is introduced on the basis of an investigation carried out by an authorised body;
- f) exporter – a person who carries out exportation in the customs territory of Georgia;
- g) importer – a person who carries out importation in the customs territory of Georgia;
- h) interested persons – the following persons shall be deemed to be interested persons:
  - h.a) an exporter, an importer, and a foreign manufacturer of an object of investigation;
  - h.b) a trade union or a business union with the majority of members being manufacturers, exporters, or importers of an object of



investigation;

h.c) the government of the exporting country of an object of investigation;

h.d) a local manufacturer of a like product;

h.e) a customers association;

h.f) a manufacturer, who uses the object of investigation in the process of production;

i) ordinary course of trade – purchasing or selling a like product at a price of not less than the initial cost;

j) dumping margin – the difference between a normal value and an export price expressed as a percentage against the export price;

k) damage – material damage inflicted, or a clearly inevitable threat of inflicting material damage, on a local industry;

l) object of investigation – an imported product, which is subject to an investigation, and referred to in a document on launching the investigation;

m) like product – a product identical to the object of investigation that is completely similar to the said product, and in the case of the absence of such a product, a product that is not completely similar to the object of investigation, however which has characteristics very much like the characteristics of the object of investigation;

n) dumping – placing an object of investigation in a local market at a lower price than its normal value. In the case of dumping, the export price of the object of investigation in normal conditions is lower than the comparable price of a like product intended for the local market of the exporting country;

o) normal value – the price of a like product in the ordinary course of trade intended for local use in an exporting country, and in the case of the absence of such a price, a comparable price of a like product in the ordinary course of trade during export into a corresponding third country.

### **Article 3 – Investigation**

1. In the case of the import dumping of a product, the introduction of a special anti-dumping tariff shall be preceded by an investigation. An investigation shall be carried out in accordance with this Law and other legal acts.

2. An investigation as provided for by paragraph 1 of this article shall be carried out in order to determine the existence of import dumping in the customs territory of Georgia, the damage inflicted, or the threat of inflicting damage, on local industry by the dumping, and to determine a causal relationship between the inflicted damage and the dumping.

### **Article 4 – Investigation authority and powers thereof**

1. In accordance with this Law, investigations shall be carried out by the Legal Entity under Public Law called the Competition Agency ('the investigation authority').

2. The investigation authority shall be authorised to:

a) request necessary information from administrative bodies (including confidential information) to carry out investigations. The said bodies are obliged to submit to the investigation authority the requested information in a reasonable time;

b) request necessary comprehensive information from interested persons, and other natural and legal persons (including confidential information) to carry out investigations. The said bodies are obliged to submit to the investigation authority the requested information in accordance with the rules and procedures determined by an ordinance of the Government of Georgia. The persons referred to in this sub-paragraph shall be responsible for the correctness of the submitted information;

c) in the case of reasonable doubt, check the validity of information in accordance with sub-paragraph (b) of this paragraph;



d) prepare an appropriate opinion on the basis of the information at its disposal if the requested information has not been delivered.

3. The investigation authority shall submit to the Government of Georgia an opinion on the basis of the investigation results on the reasonableness of introducing, revising, or eliminating a special anti-dumping tariff.

4. If, during the period of an investigation, it is confirmed, in accordance with Article 15(1) of this Law, that the object of investigation is dumping and inflicting damage, or threatening to inflict damage, on local industry, the investigation authority shall submit to the Government of Georgia a preliminary opinion on the introduction of preliminary anti-dumping measures.

#### **Article 5 – Making decisions on the introduction, revision or elimination of anti-dumping measures**

1. Within 30 calendar days after the investigation authority submits its opinion on the introduction, revision or elimination of a preliminary anti-dumping measure or a special anti-dumping tariff, the Government of Georgia shall decide whether to introduce, revise or eliminate such a measure.

2. The procedure for making a decision on the introduction of a preliminary anti-dumping measure or a special anti-dumping tariff shall be approved by an ordinance of the Government of Georgia.

### **Chapter II – Anti-Dumping Measure**

#### **Article 6 – Grounds for introducing an anti-dumping measure**

The Government of Georgia may introduce an anti-dumping measure against an object of investigation if the investigation authority determines, on the basis of the investigation, that the object of investigation is imported through import dumping, that it inflicts damage, or threatens to inflict damage, on local industry, and moreover, there is a causal relationship between the damage and the import dumping.

#### **Article 7 – Determining dumping**

1. In the ordinary course of trade, the sales volume of a like product intended for the local market of an exporting country shall be deemed to be a sufficient volume for determining a normal value if the sales volume of the like product makes up 5 percent or more of the sales of the object of an investigation in the customs territory of Georgia. Nonetheless, a smaller sales volume of a like product in the ordinary course of trade shall be deemed sufficient if this volume enables the determination of a comparable price.

2. If, in the ordinary course of trade, a like product is not sold, or insufficient volume is sold, in the exporting country and/or if, due to specific market conditions, the sales of a like product cannot be compared correctly, a dumping margin shall be determined for:

a) the comparable price of a like product when the product is exported from a third country provided that the procedure for calculating the price is clear both in terms of the type of product, and the number of transactions;

b) production costs in the country of origin which shall be added to administrative, sales and other expenses, as well as profit.

#### **Article 8 – Determination of normal value in the case of a country having a non-market economy**

1. If the object of investigation is being exported from a country not having a market economy, a normal value shall be determined on the basis of:

a) the comparable price of a like product in the ordinary course of trade intended for the consumption in a corresponding country



having a market economy;

b) the comparable price of a like product during export in the ordinary course of trade in other countries, including Georgia, having appropriate market economies.

2. If it is impossible to determine a normal value of the object of investigation in accordance with subparagraphs (a) and (b) of paragraph 1 of this article, it may be determined on the basis of the price which is paid in Georgia for a like product, or is subject to payment and correction, including profit.

#### **Article 9 – Sale at a lower price than production cost**

1. The sales of a like product in the market of an exporting country, or in a third country, at a lower price than the expense of producing a product unit, which includes administrative, sales and other expenses, may not be taken into account while determining a normal value, only when the investigation authority determines that a like product is being sold:

a) for not less than six months;

b) in a significant quantity;

c) at a price ensuring the coverage of all expenses in reasonable time.

2. A like product shall be deemed sold in a significant quantity at a lower price than the expense of producing a product unit when the investigation authority determines that:

a) the weighted average price of transactions intended for determining a normal value is less than the weighted average price of the production cost of a product unit;

b) the volume of sales at a lower price than the expense of producing a product unit makes up not less than 20 percent of sales provided for by transactions, which are taken to determine the normal value of a product.

3. If during sales the price of a like product is lower than the production cost of a product unit, but exceeds the weighted average price of a product unit in the period of investigation, the investigation authority shall consider the price of the like product to be the price ensuring the coverage of all expenses in reasonable time.

#### **Article 10 – Total expenses**

The amount of administrative, sales and other expenses, as well as the volume of profit, shall be determined on the basis of factual data on production submitted by the investigation authority, or a manufacturer, and the sales of a like product in the ordinary course of trade. If it is impossible to determine these amounts on the basis of the said data, they shall be determined:

a) according to a factual amount received from the production or sale of products of the same category by the exporter of the object of investigation, or a manufacturer in the market of the country of origin;

b) by the weighted average of factual amount received from the production and sale of a like product by another exporter subject to investigation, or a manufacturer in the market of the country of origin;

c) through any other reasonable method, provided that the amount determined by this method does not exceed the amount of profit received from trading a product of the same category by another exporter, or a manufacturer in the market of the country of the origin of the like product.

#### **Article 11 – Export price**

1. An export price is the price paid, or to be paid, during the sale of an object of investigation from an exporting country.

2. In the case of the absence of information about the export price of an object of investigation, or when the investigation



authority has a reasonable doubt regarding the export price because of an agreement regarding business relationship or compensation between an exporter and importer, or a third party, the export price of an object of investigation may be calculated:

- a) on the basis of the price at which the imported product was sold to an independent buyer for the first time;
- b) through other reasonable methods determined by the investigation authority if the imported product was not sold to an independent buyer, or was not sold in the form in which it was imported into the customs territory of Georgia.

3. If the investigation authority determines a normal value of a product according to the country of origin, an export price of the object of investigation shall be calculated on the basis of the price at which the object of investigation was sold in the market of the country of origin, for exporting purposes.

## **Article 12 – Fair comparison of prices**

1. An export price and a normal value shall be compared in an impartial manner. Such comparison shall be performed at one and the same stage of a trade transaction, generally upon bringing products out of an enterprise, and in the case of sale, it shall be performed at one and the same time, as far as possible. In each case, proper attention shall be paid to differences which influence the comparison of prices, as well as to selling conditions and time limits, taxation, the stage of a trade transaction, quantity, the differences of physical characteristics, and any other differences which also influence the comparison of prices. In the said cases, both expenses (including fees and payments paid during the period between import and resale) and profit shall be taken into consideration.

2. If, in the case provided for by paragraph 1 of this article, the comparison of prices was somehow influenced, the investigation authority shall determine a normal value at the stage of the trade transaction, which corresponds to the stage when an export price is set, or shall take into account appropriate amendments as determined by paragraph 1 of this article. The investigation authority shall indicate to interested parties what kind of information is required in order to perform the comparison of prices in an impartial manner.

## **Article 13 – Methods of comparison**

1. A dumping margin shall be determined by comparing the weighted average price of the normal value of a product with the weighted average price of all comparable prices of an export consignment, or with the export prices of certain transactions of the normal value of a product.

2. The weighted average price of the normal value of a product may be compared with the export prices of certain transactions if the investigation authority determines that export prices essentially differ according to buyers, regions, or the periods of product delivery. In such a case, the investigation authority shall explain why such differences may not be taken into account when comparing a weighted average price with another weighted average price, or a transaction with another transaction.

## **Article 14 – Determination of damage**

1. Damage inflicted, or the threat of inflicting damage, on a local industry by import dumping, and the existence of a causal relationship, shall be determined on the basis of the analysis of the volume of import dumping, as well as the impact of import dumping on prices of a like product in the local market, and on local manufacturers of this product.

2. The threat of inflicting damage shall be based not only on assumptions and unsubstantiated evidence, but on the fact that the threat of inflicting damage by dumping due to a situation created by changing circumstances is clear and inevitable.

3. In addition to import dumping, the investigation authority shall analyse other known factors, which at the same time inflict damage on a local industry. If damage on a local industry is inflicted by other factors independent from import dumping, the damage inflicted by these factors may not be associated with import dumping.

## **Article 15 – Preliminary anti-dumping measure**



1. A preliminary anti-dumping measure may be introduced after the joint implementation of the following measures:

a) the investigation of the object started in accordance with Article 20 of this Law; public notification was given about this fact and all interested persons were given an equal opportunity to provide information and comments;

b) in the process of an investigation, the investigation authority determined that import dumping inflicted damage, or threatened to inflict damage, on a local industry;

c) the investigation authority determined that such a measure is necessary to prevent the damage inflicted, or the threat of inflicting damage, on a local industry, by import dumping during the period of investigation.

2. On the basis of a preliminary opinion submitted by the investigation authority, the Government of Georgia shall introduce a preliminary anti-dumping measure. This measure may be introduced after not less than 60 calendar days from the beginning of an investigation.

3. The amount of preliminary anti-dumping tariff may not exceed a preliminarily estimated dumping margin.

4. A preliminary anti-dumping tariff shall be used during the shortest period possible, not exceeding four months, or by a decision of the investigation authority, on the basis of a request from exporters representing a significant part of trade during a period not exceeding six months. During the investigation, when the investigation authority considers whether the tariff is lower than the dumping difference, and whether it is sufficient to eradicate the damage, the said periods may be extended by up to nine months.

5. A preliminary anti-dumping tariff shall be administered by the Legal Entity under Public Law called Revenue Service ('the Revenue Service') in accordance with the procedures determined by the Government of Georgia. The sum paid in the form of preliminary anti-dumping tariff may not be transferred to the State Budget of Georgia until a decision on the introduction of a special anti-dumping measure is made.

6. If the Government of Georgia introduces a lower special anti-dumping tariff than the preliminary anti-dumping tariff, the sum paid in excess shall be returned to the payer within 90 days, and the remaining sum shall be transferred to the State Budget of Georgia.

7. If the Government of Georgia decides not to introduce a special anti-dumping measure, the sum paid in the form of preliminary anti-dumping tariff shall be returned to the payer within 90 days after making this decision, in accordance with the legislation of Georgia.

8. Moreover, a preliminary anti-dumping measure may be introduced in the form of collateral as a cash deposit or a guarantee, which corresponds to a preliminarily evaluated anti-dumping tariff, and does not exceed the preliminarily evaluated dumping margin.

## **Article 16 – Liability in relation to prices**

1. An investigation may be suspended or terminated without the introduction of a preliminary anti-dumping measure, or a special anti-dumping tariff, if an exporter voluntarily assumes liability in written form ('liability') to revise the determined price of the object of investigation, or to terminate the export of the object of investigation into the customs territory of Georgia at the dumping price, and the investigation authority determines through analysing the liability that its assumption shall eradicate the negative effects caused by import dumping.

2. According to the liability determined by paragraph 1 of this article, the increased price of the object of investigation may not exceed the dumping margin. This price may be lower than the dumping margin only when its growth is sufficient to eradicate the damage inflicted by import dumping on local industry.

3. The investigation authority may offer to an exporter the assumption of liability, however the assumption of liability shall be voluntary. The consideration of a case may not be prevented by circumstances in which an exporter is not offered the assumption of liability, or in which it does not assume liability. The investigation authority shall determine on its own that if import dumping continues, the threat of inflicting damage will exist.



## **Article 17 – Conditions for assuming liability in relation to prices by the investigation authority**

1. The Government of Georgia shall not make a decision on the approval of liability provided for by this article only when the investigation authority considers it impracticable to approve the liability, for example, when the number of actual and potential exporters is very high, or there is another reason in view of the interests of general policy. If the investigation authority decides not to approve the liability of an exporter, it shall notify the exporter of the reasons for the inappropriacy of the liability. The investigation authority shall afford an opportunity to an exporter to submit written comments regarding the above mentioned.
2. The Government of Georgia shall make a decision provided for by this article on the approval of liability on the basis of a preliminary opinion submitted by the investigation authority.
3. The investigation authority shall notify an exporter about the reasons for making a decision on the approval of liability provided for by this article and shall afford an adequate opportunity for response.
4. If an exporter assumes liability, an investigation may be continued on the basis of a request from the exporter, or a decision of the investigation authority.
5. If, according to the opinion of the investigation authority, import dumping is not identified, an exporter shall be relieved from liability, except in the case when the decision on the non-existence of import dumping was made by the virtue of the exporter assuming the liability. In such a case, the investigation authority may request the extension of the liability for an acceptable period, in accordance with this Law.
6. The investigation authority shall be authorised to request information on the fulfilment of the liability from an exporter, and to check its validity.
7. If an exporter violates/fails to fulfil the liability determined by Article 16(1) of this Law, the Government of Georgia shall immediately make a decision on the basis of existing information about whether to introduce a preliminary anti-dumping measure. In such a case, a special anti-dumping tariff shall be introduced for products which had been put into circulation 90 days before the introduction of the preliminary anti-dumping measure, except when the product was imported before the violation of the liability/failure to fulfil the liability.

## **Article 18 – Introduction and application of a special anti-dumping tariff**

1. On the basis of an opinion submitted by the investigation authority, the Government of Georgia shall introduce a special anti-dumping tariff for the object of investigation which inflicts damage on local industry.
2. The Government of Georgia shall introduce a special anti-dumping tariff individually, in a non-discriminatory manner, for a product imported and/or manufactured by a person.
3. The investigation authority shall determine whether a lower tariff (tariff rate) than a dumping margin is sufficient to eradicate the damage inflicted on local industry. If the investigation authority determines that a lower tariff (tariff rate) than the dumping margin is sufficient to eradicate the damage inflicted on a local industry, the special anti-dumping tariff shall not exceed this tariff (tariff rate).
4. When making a decision on the introduction of a special anti-dumping tariff, public interest shall be taken into account in line with the interests of local industry.
5. A special anti-dumping tariff shall be administered by the Revenue Service in accordance with the procedures determined by the Government of Georgia.

## **Article 19 – Validity period and revision of a special anti-dumping tariff**

1. A special anti-dumping tariff shall be introduced by a decision of the Government of Georgia in the amount and for the period required for the eradication of the damage inflicted by an object of investigation on local industry.
2. A special anti-dumping tariff shall be introduced for not more than five years. This period shall start from the day of introducing the anti-dumping measure.



3. The period determined by paragraph 2 of this article may be extended for not more than five years if the investigation authority determines that the termination of the validity of the special anti-dumping tariff would inflict damage on local industry. In such a case, a special anti-dumping tariff may remain in force until the completion of the repeated investigation.

4. Ninety days before the expiration of the validity of a special anti-dumping tariff, the investigation authority shall publish an official notification thereof.

5. Local industry may file a written application to the investigation authority on launching a repeated investigation, within 45 days after the publication of an official notification.

6. A decision on the extension of the period of the introduction of a special anti-dumping tariff shall be made by the Government of Georgia on the basis of an opinion submitted by the investigation authority.

7. The period of repeated investigation may not exceed 12 months.

8. If, on the basis of the repeated investigation provided for in paragraph 3 of this article, it is determined that there are no grounds for introducing a special anti-dumping tariff, the sum paid in the form of an anti-dumping tariff during the period of repeated investigation shall be returned to the payer in accordance with the legislation of Georgia.

### **Chapter III – Investigation**

#### **Article 20 – Grounds for launching and conducting an investigation**

1. A written application filed by or on behalf of a local industry shall serve as grounds for launching an investigation.

2. A list of documents accompanying the application referred to in paragraph 1 of this article shall be compiled in accordance with the rules and procedures determined by the Government of Georgia.

3. An investigation as provided for in paragraph 1 of this article may be launched only when an application is submitted by or on behalf of a local industry which produces the like product making up more than 50 percent of the total like product jointly produced by local industry, and which supports or disagrees with the application. Notwithstanding the aforesaid, an investigation shall not be launched if the investigation authority, on the basis of opinions expressed in support of, or contrary to, an application, determines that the part of local industry which supports the application produces less than 25 percent of the total like product produced by local industry.

4. The investigation authority shall make a decision on launching an investigation within 45 calendar days after the submission of an application. This period may be extended for 15 calendar days for the purpose of receiving additional information from the applicant by the investigation authority.

5. The investigation authority shall notify an applicant in writing about its substantiated refusal within five working days after making a decision on the refusal to launch an investigation.

6. If a decision to launch an investigation is made, the investigation authority shall publish information thereon on its website. The date of publication shall be deemed to be the date of launching the investigation. In addition, the investigation authority shall immediately notify the government of each exporting country about launching an investigation.

7. An interested person shall have the right to apply in writing to the investigation authority regarding the participation in the investigation within 30 calendar days after the investigation is launched.

8. The investigation authority shall carry out investigations in accordance with the rules and procedures established by the Government of Georgia.

9. The period of investigation may not exceed 12 months. This period may be extended for not more than six months.





## **Article 21 – Insignificant volume of import and minimum dumping margin**

The investigation authority shall not launch an investigation, or make a decision on the immediate completion of an investigation, if, on the basis of submitted information, it determines that:

- a) the volume of the import of the object of investigation from any country to Georgia is insignificant, i.e. less than 3 percent of the gross import of like products, except for cases when the total share of import from such countries in gross import of like products is more than 7 percent;
- b) a dumping margin is less than 2 percent.

## **Article 22 – Confidential information**

1. Information submitted by an interested person to the investigation authority shall be deemed to be confidential if the person submitting the information provides the investigation authority with a substantiation that the disclosure of such information would give preference to a third person in terms of competition, or will have negative effects on the person submitting the information, or on the person the interested person received such information from. Confidential information may not be disclosed without the consent of an interested person, except as provided for by the legislation of Georgia.

2. The investigation authority shall be authorised to request non-confidential information from an interested person submitting confidential information. Non-confidential information shall contain data necessary to understand the essence of submitted confidential information. If, in response to the investigation authority requesting the submission of a non-confidential version of confidential information, the interested person states that the submission of confidential information is impossible in a non-confidential manner, this person shall be obliged to substantiate that the submission of confidential information is impossible in such a form.

## **Article 23 – Non-application of an anti-dumping measure**

1. The Government of Georgia shall be authorised to make a decision on the non-application of an anti-dumping measure if the introduction of this measure, fully or partially, would inflict damage on another area of the economy, or on the interests of the consumers of the product, or if it is conditioned by state needs.

2. A decision made on the non-application of an anti-dumping measure shall be substantiated.

3. A decision made on the non-application of an anti-dumping measure may be revised within the period of one year if the reason for making such a decision changes.

4. The Government of Georgia shall ensure that information on the non-application of an anti-dumping measure is published.

## **Article 24 – Appeal**

1. A decision of the Government of Georgia on the introduction, non-application, revision, or revocation of a preliminary/special anti-dumping tariff shall be appealed in the Tbilisi City Court in accordance with the procedures established by the legislation of Georgia.

2. An appeal regarding a decision of the Government of Georgia as provided for by paragraph 1 of this article may not suspend the effect of said decision.

## **Article 25 – Sending a notification to the World Trade Organisation**

The Government of Georgia, in accordance with the procedures established by the Anti-Dumping Committee of the World Trade Organisation, shall:



- a) send a notification about launching, and on the procedures for conducting, an investigation for the purpose of introducing an anti-dumping measure;
- b) send a notification about all implemented preliminary anti-dumping measures, or special anti-dumping measures;
- c) twice a year, submit an opinion on anti-dumping measures implemented during the previous six months, in accordance with a standard form, to the Anti-Dumping Committee of the World Trade Organisation.

## **Chapter IV – Transitional and Final Provisions**

### **Article 26 – Transitional provisions**

Within six months after this Law enters into force, the Government of Georgia shall adopt the following ordinances:

- a) the Ordinance of the Government of Georgia on Launching, and on Procedures for Conducting, an Investigation for the Purpose of Introducing an Anti-Dumping Measure;
- b) the Ordinance of the Government of Georgia on the Procedure for Making a Decision by the Government of Georgia on the Introduction of an Anti-Dumping Measure in Trade;
- c) the Ordinance of the Government of Georgia on the Procedure for Administering a Preliminary Anti-Dumping Measure and a Special Anti-Dumping Tariff.

### **Article 27 – Entry into force of the Law**

1. This Law, except for the Article 20 of this Law, shall enter into force from 1 January 2021.
2. Article 20 of this Law shall enter into force from 1 June 2021.

**President of Georgia**

**Salome Zourabichvili**

**Tbilisi**

**13 July 2020**

**No 6749-ᄁᄁ**

