

Government of Georgia

Ordinance № 249

June 1, 2021

Tbilisi

Rules and Procedures for Conducting an Investigation for the Purpose of Imposing of an Anti-Dumping Measure in Trade Article 1.

On the basis of Article 12 of the Organic Law of Georgia “on Normative Acts“ , Paragraph 2 of Article 20 and Sub-paragraph “a” of Article 26 of the Law of Georgia “on the Imposition of Anti-Dumping Measures in Trade”, the attached “Rules and Procedures for Conducting an Investigation for the Purpose of Imposing of an Anti-Dumping Measure in Trade” shall be approved.

Article 2.

The Ordinance shall enter into force from 1 June 2021.

Prime-Minister

Irakli Garibashvili

Rules and Procedures for Conducting an Investigation for the Purpose of Imposing of an Anti-Dumping Measure in Trade

I. General Provisions

Article 1. Introductory Provisions

1. For the purpose of the prevention of the injury on the domestic industry caused by the dumped imports in and thus for the purpose of the imposition, revision or elimination of anti-dumping measures in trade in the customs territory of Georgia (except for free industrial zones), the rules and procedures for the investigation (*hereinafter* “the Rule”) have been developed in accordance with the Law of Georgia “on the imposition of Anti-Dumping Measures in Trade” (*hereinafter* “the Law”).

2. The Rule defines the rules and procedures for conducting the investigation by the Legal Entity of Public Law - the National Georgian Competition Agency (*hereinafter* “the Investigating Authority”) in relation to the determination the existence of dumped imports, injury and the causal link between the injury and the dumping in the customs territory of Georgia, based on a written application filed by or on behalf of a domestic industry, and in relation to the revision or elimination of anti-dumping measures. The Rule also defines the rights and obligations of persons involved in the investigation process.

3. The terms used in the Rule have the same meaning as defined in Article 2 of the Law.

Article 2. Public and Confidential Information

1. The opinions made by the Investigating Authority as a result of the investigation are public, except for the confidential information specified in the Rule and the legislation of Georgia.
2. In accordance with Article 22 of the Law, confidential information shall not be disclosed without the consent of an interested person submitting it, except as provided for by the legislation of Georgia. The confidential information is disclosed in accordance with the rules established by the legislation of Georgia.
3. In case the information submitted to the Investigating Authority is classified as a commercial secret in accordance with Article 22 of the Law and the General Administrative Code of Georgia, the Investigating Authority is authorized to request a person to submit a non-confidential version of the document in the relevant period set by the Investigating Authority.
4. The version of the document is considered non-confidential if all data related to the commercial secret is properly concealed and it can be disclosed to other interested person as the materials of administrative proceedings.
5. The Investigating Authority is entitled to disagree with the non-confidential version of the document submitted by the person and additionally request to conceal the data in another way or to ensure the creation of a non-confidential version of the document itself and inform the person thereon.
6. Disclosure, dissemination or use of confidential information by an employee of the Investigating Authority, including for personal, academic, scientific and other activities, excluding in exceptional cases provided for by the legislation of Georgia, will result in disciplinary liability under the Internal Regulations of the Investigating Authority.

Article 3. The Rights and Obligations of the Parties and the Interested Parties

1. The participants to the investigation constitute the parties and the interested persons. The parties are the applicant and the exporter.
2. The applicant is a domestic industry or a person acting on behalf of the domestic industry, which satisfies the criteria of Paragraph 3 of Article 5 of the rule and which considers that due to an occurrence of the dumped imports in the customs territory of Georgia the domestic industry suffers the injury or there is a threat of the inflicting injury, for which it files the application with the Investigating Authority.
3. The applicant shall furnish the evidences in accordance with Article 5 of the Rule along with the application filed with the Investigating Authority.
4. The parties and the interested persons have the rights to:
 - a) Have a lawyer and/or a representative during the investigation process;

- b) Submit a position, information and/or evidence to the Investigating Authority at any stage of the investigation;
 - c) Review the case materials in accordance with the procedure defined by Article 99 of the General Administrative Code of Georgia;
 - d) Request an extension of the deadline for the submission of information/evidence in accordance with the Rule and the Law;
 - e) In accordance with the Law, request the classification of the information submitted by them to the Investigating Authority as a commercial secret;
 - f) Declare the recusal of the employee of the Investigating Authority in accordance with Article 93 of the General Administrative Code of Georgia;
 - g) Request the hearing.
5. In addition to the rights set forth in Paragraph 4 of this Article, the exporter has the right to offer the price undertaking pursuant to Article 16 of the Law.
6. The parties and the interested persons are obliged to:
- a) Provide the Investigating Authority with requested information, including confidential information, which is required in the course of exercising relevant powers of the Investigating Authority;
 - b) Not to interfere with the authorized person/persons of the Investigating Authority in the process of verification procedure pursuant to Article 9 of the Rule;
 - c) Cooperate with the Investigating Authority at any stage of investigation.

II. Procedure of Investigation

Article 4. The Subject of Investigation

In accordance with Paragraph 2 of Article 3 of the Law, the subject of investigation constitutes the determination of the existence of dumping in the customs territory of Georgia, the inflicted injury or the threat of inflicting injury on the domestic industry and the causal link between them.

Article 5. The Application

1. In accordance with Article 20 of the Law, the written application shall be filed with the Investigating Authority by:
- a. The domestic industry that produces the like product of an object of investigation;
 - b. Any natural or legal person or any association not having a legal personality, acting on behalf of the domestic industry.

2. After the submission of an application, the Investigating Authority shall make a decision on the initiation an investigation or on the refusal to initiate an investigation within 45 calendar days. This period may be extended for 15 calendar days for the purpose of receiving additional information from the applicant by the Investigating Authority.

3. The investigation may be initiated only in circumstances provided in Paragraph 3 of Article 20 that is reviewed by the Investigating Authority in the process of examining material admissibility and for which the following criteria shall be fulfilled:

a. The application is supported by those domestic industry whose collective output constitutes more than 50 percent of the total production of the like product produced by that portion of the domestic industry explicitly expressing either support for or opposition to the application.

b. The supporters stipulated in sub-paragraph “a” of this provision account for 25 percent or more of total production of the like product produced by the total domestic industry.

4. The application shall be filed in the form as defined in Annex 1.

5. The application given shall be accompanied by the relevant supporting evidences on the existence of:

a) The dumped imports

b) The injury, and

c) The causal link between dumping and the injury.

6. The application shall contain the information that is reasonably available to the applicant and, also the reference to the accuracy of information. The application shall contain the following information:

a) 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 manufacturers of the like product (or associations of domestic manufacturers 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 manufacturers;

b) a complete description of the alleged object of investigation, the names of the country or countries of origin or export in question, the identity of each known exporter or foreign manufacturers and a list of known persons importing the product in question;

c) the information on prices at which the alleged object of investigation 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 alleged object is sold from the country or countries of origin or export to a third country or countries, or on the constructed value of an object. Also, the

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 Georgia;

d) the 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, demonstrated by the relevant factors.

e) Any additional information on the alleged object of investigation relevant for the purposes of paragraph 5 of this Article.

7. The Investigating Authority shall, within 3 working days from the receipt of the application, verify the formal compliance of the application with the requirements provided by the Law, this Article and the Annex.

8. If the application does not meet the relevant formal requirements, the Investigating Authority shall identify the deficiency to the application and set a reasonable time limit for eliminating it. The letter on the deficiency shall indicate the specific issues and circumstances that the Investigating Authority requests to address and/or clarify.

9. In the case provided for in Paragraph 8 of this Article, the period for the admissibility of application shall be considered suspended once the deficiency is identified, and shall be renewed once it is remedied by the applicant.

10. If the applicant does not address the deficiency within the time period set by the Investigating Authority, the latter is authorized to make a decision to leave the complaint unconsidered and shall notify the applicant in written thereof.

11. The application shall not be publicized. In case the Investigating Authority makes a decision on initiating an investigation the full text of the application, due regard being paid to the requirement for the protection of confidential information, shall be forwarded to the exporters, the governments of the exporting countries and, if requested, to other interested persons.

12. The Investigating Authority notifies the government of an exporting country the intent of initiating an investigation before initiating it.

Article 6. Initiation, Suspending or Terminating an Investigation

1. After considering the application as formally admissible, the Investigating Authority examines the material admissibility with the requirements provided by the Law, Article 5 of the Rule and this Article, after which it enacts the individual administrative act on initiating an investigation of the case or on the refusal to initiate an investigation.

2. The Investigating Authority is authorized to request from the applicant, if necessary, additional information/evidence for which the period for a decision to initiate an investigation may be extended for 15 calendar days, pursuant to Paragraph 4 of Article 20 of the Law.

3. In the process of examination, the Investigating Authority shall examine the accuracy and adequacy of the evidence provided in the application to determine whether there is sufficient evidence to justify the initiating of investigation.

4. The evidence of both dumping and injury shall be considered simultaneously in the decision whether or not to initiate an investigation and thereafter, during the course of investigation.

5. The information/evidences necessary for the investigation shall be in accordance with a period of no less than six months prior to initiating an investigation; in case of the investigation of injury the information/evidences necessary for the investigation shall be in accordance with a period three years prior to initiating the investigation. The Investigating Authority is authorized to select other periods than stipulated in this paragraph, which shall be explained in the public notice of initiation of the investigation.

6. The Investigating Authority in the term provided in Paragraph 2 of Article 5 of the Rule shall make a decision on the refusal to initiate an investigation if:

a) The application is not filed by an authorized person pursuant to Paragraph 3 of Article 5 of the Rule;

b) The Investigating Authority is convinced that there is not sufficient evidence of either dumping or of injury or the causality to justify proceeding with the case;

c) The Investigating Authority, as provided in Article 21 of the Law, determines that there is an insignificant volume of import and/or the dumping margin is less than the minimum dumping margin;

d) There is a decision made by the Government of Georgia as a result of the investigation of the case on the same object of investigation and there are no newly discovered circumstances revealed;

e) There is a negative decision made by the investigating authority on admissibility of the application between the same parties, on the same object of investigation and there is no newly discovered/revealed circumstance.

7. The Investigating Authority shall notify an applicant in writing on its substantiated refusal within five working days after making a decision on the refusal to initiate an investigation.

8. The investigation may be suspended on the grounds stipulated in Article 16 of the Law.

9. The investigation shall be terminated based on:

a) the withdrawal of an application by the applicant during the course of investigation;

b) identifying in the course of investigation that the applicant was not an authorized person;

- c) the occurrence of the case stipulated in Article 21 of the Law;
- d) the expiry of the term determined in the voluntary price undertaking .

10. The investigation is concluded upon the submission of the Investigating Authority opinions on the reasonableness of the imposition, revision or elimination of a preliminary anti-dumping measure or a special anti-dumping tariff to the Government of Georgia.

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

12. An anti-dumping proceeding shall not hinder the procedures of customs clearance of an object of investigation.

13. The applicant is authorized to withdraw the application before initiating an investigation or in the course of investigation. In such a case the Investigating Authority makes a decision to dismiss an application or terminates the proceedings.

Article 7. Notification on Initiating and Completion of Investigation

1. The Investigating Authority, upon the decision to initiate an investigation, shall give the written notice to the government of an exporting country and other interested persons, and shall publish the information thereon on its website.

2. As provided in Paragraph 6 of Article 20 of the Law a public and written notice shall contain the information on the following:

- a) The name of the product under investigation and the exporting country;
- b) The date of initiation of an investigation;
- c) The basis on which dumping is alleged in the application;
- d) Summary of the factors on which the allegation of injury is based;
- e) The address where the interested persons may submit the information related to investigation and their opinions in a written form;
- f) Timeframe in which the interested persons may submit the information related to investigation and their opinions in a written form;
- g) Timeframe in which the persons involved in the investigation may request the hearing in accordance with Article 10 of the Rule.

3. The Investigating Authority shall publish information on its website on any decision regarding suspension or elimination of investigation, and on its opinion on the imposition, revision or elimination of anti-dumping measures. The Investigating Authority shall give the written notice to the government of the exporting country and other known interested persons.

4. Before public notification, the Investigating authority shall provide its opinion referred to in paragraph 3 of this Article to the participants of the investigation, who may submit their comments within 15 calendar days.

5. A public and written notice to the interested persons on the opinion regarding the imposition of a preliminary anti-dumping measure shall set forth 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 it. Such a public and written notice shall, due regard being paid to the requirement for the protection of confidential information, contain in particular:

- a) The names of the exporters, or when this is impracticable, the exporting countries involved;
- b) A description of the product under investigation which is sufficient for customs purposes;
- c) The margins of dumping established and a full explanation of the reasons and the methodology used in the establishment and comparison of the export price and the normal value;
- d) Considerations relevant to the injury determination;

6. A public and written notice on conclusion, suspension or elimination of an investigation shall contain all relevant information on the matters of fact and law and reasons which have led to the opinion regarding final determination, due regard being paid to the requirement for the protection of confidential information. In particular, the notice shall contain:

- a) The relevant information described in Paragraph 5 of this Article;
- b) The reasons for the acceptance or rejection of relevant arguments or claims made by the exporters and importers.

7. The provisions of this Article shall apply mutatis mutandis to the initiation and completion of the procedure of reviews pursuant to Article 19 of the Law.

Article 8. Obtaining Information

1. Following the initiation of investigation, the Investigating Authority shall send the questionnaires to all known interested persons.

2. The questionnaires shall be considered received upon the date of receipt by interested persons, and for the exporters, the foreign manufacturers and/or the government of the exporting country after 7 calendar days from the day on which it was sent.

3. Interested persons shall be given 30 days for their replies. Upon substantiated written request for an extension of the 30-day period, an extension for 10 days may be granted.

4. The information is considered accepted if it is appropriately submitted timely to the legal address and/or official email of the Investigating Authority.

5. The Investigating Authority is authorized to request an additional information from the persons involved in investigation.

6. In the course of an investigation the Investigating Authority shall check the accuracy of the information supplied by interested persons upon which their findings are based.

7. If submitted information is not accepted by Investigating Authority, the supplying party shall be informed forthwith of the reasons therefor, and shall be given an opportunity to provide further explanations within a reasonable period of time.

8. In the case provided for in Paragraph 7 of this Article, when the grounds for rejection have not been eliminated, the reasons for the rejection of such evidence or information shall be given in any published opinions.

9. In cases in which a party/ interested person and another natural or legal person refuses access to, or otherwise does not provide, necessary information within a reasonable period or significantly impedes the investigation, preliminary and final determinations may be made on the basis of the facts available.

10. The Legal Entity of Public Law Georgia Revenue Service, National Statistics Office of Georgia, and other administrative bodies, as provided in Subparagraph 'a' of Paragraph 2 of Article 4 of the Law, are obliged to submit to the Investigating Authority the requested information, including confidential information, necessary for investigation.

11. In cases where the number of exporters, manufacturers, importers or types of products involved is so large that the determination of an individual margin of dumping is impracticable, the Investigating authority after consulting and with the consent of the relevant exporters, foreign manufacturers and importers may limit their examination:

a) To a reasonable number of interested persons or products by using samples which are statistically valid; or

b) To the reasonable percentage of the volume of the exports which can be investigated in the period determined.

Article 9. Verification

1. In order to verify the information provided, if necessary, the Investigating Authority has the right to carry out on the spot visit to the exporting or relevant foreign country.

2. The Investigating Authority may carry out on the spot visit, if:

a) The agreement from the foreign manufacturer concerned is obtained;

b) The representatives of the government of the country concerned are notified; and

c) The government of the country concerned does not object to such visit.

3. As soon as the agreements from the exporters and foreign manufacturers concerned have been obtained, the Investigating Authority shall notify the government of the exporting country of the names and addresses of the exporters and foreign manufacturers to be visited and the dates agreed.

4. If it is intended to include non-governmental experts in the investigation process, the exporters, foreign manufacturers and the government of the exporting country shall be so informed.

5. Visits for the purpose of explanation of the responses to the questionnaire shall only be made at the request of the exporters and foreign manufacturers.

6. On the spot visit is carried out after the responses to the questionnaire has been received unless contrary is agreed with the exporter.

7. Before on the spot visit the Investigating Authority informs the exporter or foreign manufacturers concerned about the general nature of the information to be verified and of any further information which needs to be provided. This does not preclude the Investigating Authority to request further details in the light of information obtained on the spot.
8. Questions put by the Investigating authority or exporters that are essential to a successful on the spot visit should be answered before the visit is made.
9. Subject to the requirement to protect confidential information, the Investigating Authority informs interested persons on the results of on the spot visits.

Article 10. Hearing

1. The hearing may be held to provide opportunity for interested persons to defend their interests, to present opposing arguments and positions orally, in addition to provide opportunity for Investigating Authority to obtain and verify information necessary for the investigation.
2. The parties and the interested persons have a right to request the hearing in a form of a written request.
3. Within 5 calendar days after the receipt of request to hold a hearing, the Investigating Authority notifies the persons involved in investigation the dates and agenda of the hearing.
4. The date of the hearing shall be set not less than 15 calendar days after the receipt of a written request.
5. The Investigating Authority has a right to organize a hearing remotely by using an electronic communication system. Parties specified in Paragraph 2 of this Article shall be notified accordingly.
6. The persons involved in investigation must ensure the protection of the confidential information.
7. The absence of the person invited to the hearing is not a ground for the termination of the session.
8. The hearing is chaired by the representative of the Investigating Authority.
9. The minutes of the hearing are signed by the chairperson of the hearing and the secretary of the hearing.
10. The Investigating Authority provides the minutes of the hearing to the participants within 5 calendar days after the hearing.

Article 11. Repeated Investigation

1. 90 days before the expiration of the validity of a special anti-dumping tariff, the Investigating Authority shall publish an official notification on its website thereof.
2. In accordance with Paragraph 1 of this Article, the domestic industry is authorized to file a written application to the Investigating Authority on initiating a repeated investigation, within 45 days after the publication of an official notification.

3. Pursuant to the foregoing Paragraph, the Investigating Authority carries out the repeated investigation to review the special anti-dumping tariff. The provisions of the Rule shall apply mutatis mutandis to such a review carried out under this Article.
4. Repeated investigation shall be initiated where the request of domestic industry contains sufficient evidence that the expiry of the special anti-dumping tariff would likely result in a continuation or recurrence of dumping and injury on which relevant evidence shall be submitted.
5. The Investigating Authority, based on the repeated investigation, submits to the Government of Georgia an opinion on the reasonableness of extension or elimination of a special anti-dumping tariff.
6. In accordance with paragraph 2 of Article 19 of the law the period of a special anti-dumping tariff may be extended for not more than five years, if the Investigating Authority determines that the termination of the validity of the special anti-dumping tariff would inflict injury on the domestic industry due to dumping imports.
7. In case of the repeated investigation, a special anti-dumping tariff may remain in force until the completion of the repeated investigation.
8. The period of repeated investigation may not exceed 12 months.

Chapter III. Determination of Dumping

Article 12. Determination of Normal Value

1. An imported product may be deemed an object of investigation if the export price of the product is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country.
2. For determination of a normal value, the sales volume of a like product intended for the domestic market of an exporting country shall meet the sufficiency criteria provided in Paragraph 1 of Article 7 of the Law.
3. The volume provided in Paragraph 2 of this article shall be considered sufficient if such sales constitute 5 per cent or more of the sales of the product under investigation in the customs territory of Georgia. Nonetheless, a lower ratio may be acceptable where the evidence demonstrates that the domestic sales at such lower ratio are sufficient to provide proper comparison.
4. The Investigating authority considers normal value of an object under investigation as a weighted average price, which is calculated on the basis of the like product destined for consumption in the exporting country in the sufficient volumes.
5. The sales of a like product in the market of an exporting country, or in a third country, at a lower price than costs of production should be assessed in accordance with Article 9 of the Law.
6. If Paragraphs 2 and 3 of this Article are not fulfilled, and/or if, due to specific market conditions, the sales of a like product cannot be compared correctly, a normal value shall be determined based on:
 - a) The price of a like product when exported to a third country; or

b) Costs of production in the country of origin that shall include administrative, sales and other expenses, as well as profit, calculated in accordance with Article 10 of the Law (Total expenses).

7. The production cost of a product unit is calculated on the basis of records kept by the exporter or foreign manufacturer, provided that such records are in accordance with the accepted Principles of Accounting and Reporting of Georgia and reasonably reflect the costs associated with the production and sale of the like product.

8. Determination of production, administrative, selling and general costs is tentative and based on data submitted by exporter or foreign manufacturer.

9. The costs, provided in Paragraph 7 and 8 of this article may be adjusted in accordance with the variable costs of production or circumstances that affect relevant operations of production during the period of investigation.

10. If an object of investigation is being exported from a non-market economy country, a normal value shall be determined in accordance with Article 8 of the Law.

11. The exporting country may be considered as a non-market economy based on the following criteria:

a) Level of currency conversion on international stock exchange of foreign country wherefrom the export of the product under investigation is made;

b) The level of state intervention in the production of an object of investigation by the exporters or foreign manufacturers, considering the prices of the like products, costs of production, sales of raw material, use of technology and level of investment;

c) The level of state intervention in the production process of the object of investigation by the exporters or foreign manufacturers, considering determination of export prices and export capacities;

d) The level of state influence on the activities conducted by partaking of foreign judicial persons or their investments made in the territory of the country wherefrom an object of investigation is exported;

e) Non-availability of the unified accounting system for an object of investigation, which is relevant to internationally recognized accounting and reporting principles.

Article 13. Determination of Export Price

1. The export price of an object of investigation is determined in accordance with Article 11 of the Law.

2. In case of the absence of the information on the export price of an object of investigation or the reasonable doubt on the reliability of the export price, due to the reason that exporter and importer of the investigated product are interrelated or each is connected to third party, or due to the evidence on unlawful agreement regarding the determination of export price in the past, or on additional agreement, including discounts or compensations, the export price may be determined based on the price on which the imported product is first sold to independent buyer or if the imported product is not resold to independent buyer or resold by the form it was imported to the customs territory of Georgia, export price may be determined by another method set by the Investigating Authority, in accordance with the principles of fair comparison of prices provided in the Law.

Article 14. Comparison Rule

1. The comparison between the export price and the normal value shall be made in accordance with Article 12 of the Law.
2. When comparing the export price of an object of investigation with its normal value, they shall be adjusted to take into account differences affecting price comparisons, differences in supply conditions, taxes, trade stages, quantitative characteristics, physical characteristics and any other differences with respect to them furnished with evidence.
3. In the cases provided for in Paragraph 2 of Article 13 of the Rule, the costs as well as the tariff and tax, paid between the importation of the product and the resale, as well as the profit received, and shall be taken into account.
4. If the export price of an object of investigation is compared to the normal value, and its volume needs to be calculated from one currency to another, and if the sale of foreign currency was directly related to the supply of the relevant export product and was carried out for the same period, the official exchange rate is used on the day of the foreign exchange transaction. Investigating Authority shall not take into consideration exchange rate fluctuations and shall give exporters at least 60 calendar days to adjust their export prices during the study period to reflect changes in exchange rates during the study period.
5. In case where products are not imported directly from the country of origin but are exported to the customs territory of Georgia from a third country, export price shall normally be compared with the comparable price in the exporting country. Comparison may also be made with the price in the country of origin, when the products are merely transshipped through the exporting country, or such products are not produced in the exporting country, or when there is no comparable price for them.

Article 15. Determining Dumping Margin

1. The dumping margin is determined according to Article 13 of the Law, the weighted average price of product normal value compared to weighted average price of every exporting unit or comparing product normal value to the individual export transactions.
2. The weighted average price of a product normal value is comparable to the export prices of individual transactions if the Investigating Authority finds that the export prices substantially differ by the purchaser, region or product delivery period. In such a case, the Investigating Authority shall explain the reasons of not taking into consideration such differences when using the comparison of the weighted average price to the weighted average price or the transaction to the transaction.

3. Pursuant to Paragraph 3 of Article 18 of the Law, the Investigating Authority shall consider the injury margin rate when assessing the adequacy of a tariff below the dumping threshold in order to eliminate the threat of injury or injury to the industry.
4. The injury margin is determined by comparing the price of a similar product produced by the domestic industry with the export price of the dumped import, or by comparing the target price of the domestic market with the export price of the dumped import.
5. For the purposes of the Rule, the target price is:
 - a) The price of similar product produced by the domestic industry before the impact of the dumped imports;
 - b) The price of a similar product exported to the domestic market at a non-dumping price; or
 - c) The cost of producing a similar product by the domestic industry, which includes administrative, sales, and other expenses, as well as a reasonable profit margin.
6. When determining the injury margin, the Investigating Authority shall take into consideration the fair price comparison principles provided in Article 14 of the Rule.

Chapter IV. Injury and Causal Link

Article 16. Methods of the Determination of Injury

1. According to Article 14 of the Law, the determination of the injury or threat of injury caused by dumped imports to the domestic industry must be based on the analysis of the volume of dumped imports, as well as the impact of dumped products on the prices of similar products in the domestic market and the impact on the domestic manufacturers of this product.
2. Regarding the volume of dumped imports, the Investigating Authority shall take into consideration the growth rates of dumped imports.
3. Regarding to the impact of dumped imports on the prices of the like product in the domestic market, the Investigating Authority shall take into consideration:
 - a) Whether the price of an object of investigation is substantially lower compared to the prices of like products in the Georgian market;
 - b) Whether dumped imports caused a decrease of the prices of like products in the Georgian market;

- c) Whether dumped imports significantly obstructed the growth of like product prices in the Georgian market.
4. The analysis of the impact of dumped imports on domestic industry lies in assessing the economic factors associated with domestic industry, including (and not only):
 - a) An existing or potential reduction in sales, profits, production, market share, productivity, return on investment or capacity utilization;
 - b) Factors affecting the price level in the Georgian market;
 - c) Quantitative value of a dumping margin;
 - d) Existing or anticipated negative effects on cash flows, stocks, employment, wages, growth, or capital and investment attraction.
5. The impact of dumped imports on domestic industry is assessed in relation to a like product in Georgia if the available data make it possible to determine the production of a like product on the basis of criteria such as manufacturing process, trade of the product by the manufacturers and profit. If the available data do not allow a separate breakdown of the production of a like product, the impact of dumped imports on domestic industry is assessed in relation to a relatively narrow production group or commodity nomenclature that includes a like product.
6. When determining the threat of material injury caused by dumped imports to the domestic industry, the Investigating Authority shall take into consideration all available factors together, none of them having a substantive preference over others, including:
 - a) The growth rate of dumped imports and the forecast for further growth;
 - b) Whether the exporter has sufficient export opportunities for an object of investigation or whether there is an irreversible increase in such opportunities, as well as the ability of other export markets to receive a significant amount of additional exports of the mentioned product;
 - c) The level of prices of an object of investigation, if such level can cause a decrease or maintenance of the prices of a like product, or an increase in demand for an object of investigation in the Georgian market.
 - d) The stock of an object of investigation at the disposal of the exporter.
7. If an object of investigation is imported from more than one foreign country in the custom territory of Georgia, the Investigating Authority may assess the combined impact of such import if it finds that:
 - a) The dumping margin specified for a product import from each foreign country exceeds the minimum permissible level of the dumping margin, and the import of a given product from each foreign country is not insignificant in accordance with Article 21 of the Law;
 - b) The joint impact of the product import can be assessed between the imported product and with considering the competitive conditions of a like product on the Georgian market.
8. None of the factors referred to in Paragraph 1 of this Article shall have a substantive preference over other factors in determining the injury or the threat of injury to the domestic industry.

Article 17. Determination of a Causal Link between Dumped Imports and Injury

1. In accordance with Article 16 of this Rule, on the basis of an examination of all the evidence, the Investigating Authority shall prove that dumped imports are the cause of the injury to the domestic industry. For this purpose Investigating Authority shall demonstrate that the increase in dumped imports volume and its impact on prices is the basis for the identified impact on the domestic industry.
2. The Investigating Authority, in addition, analyses not only dumped imports but other known available factors as well that at the same time might be detrimental to the domestic industry, including but not limited to, the price and volume of non-dumped imports, changes in demand quantity or form, competition between foreign and domestic manufacturers or the practice that restrict competition. Injury caused by these factors shall not be causally linked to the injury caused to the industry by dumped imports or the threat of injury.

Article 18. Public Interest

1. Pursuant to Paragraph 4 of Article 18 and Article 23 of the Law, in order to consider the public interest in line with the interests of the domestic industry, the opinion submitted by the Investigating Authority to the Government of Georgia on the reasonableness of the imposition of a preliminary anti-dumping measure or the imposition, revision or elimination of a special anti-dumping tariff shall include the information related to the public interest.
2. The presented information should be based on a unified assessment of the interests of the persons involved in investigation, which includes an assessment of the potential impact of the imposition of the anti-dumping measure on both the domestic industry and the consumers and related manufacturers using an object of investigation in the manufacturing process.
3. In assessing the public interest, the Investigating Authority, among other factors, shall consider:
 - a. The injury caused by dumped imports and the potential impact of the imposition of anti-dumping measures on the domestic industry;
 - b. The importance of consumers in the Georgian market and related manufacturers who use an object of investigation in manufacturing process;
 - c. The potential impact of the imposition of an anti-dumping measure on consumers and related manufacturers who use an object of investigation in the manufacturing process;
 - d. The potential impact of the imposition of anti-dumping measures on market structure and competitive environment.
4. For the public interest assessment, the interested persons shall submit the relevant opinions and information to the Investigating Authority within the period specified in the notice on the initiation of the investigation.

Chapter V. Rules for Determining Anti-Dumping Measures

Article 19. Preliminary Anti-Dumping Measure

1. In case when it is clear before the investigation process is completed that import is dumped and it is detrimental to the domestic industry or poses the potential threat of injury, the Investigating Authority will develop a preliminary opinion on the imposition of a preliminary anti-dumping tariff or its relevant collateral form.
2. The amount of the preliminary anti-dumping tariff may not exceed a preliminary estimated dumping margin.
3. The preliminary anti-dumping tariff shall be applied for shortest period possible, not exceeding four months, or by a decision of the Investigating Authority on the basis of a substantiated request of exporter representing not less than 80 per cent of market volume, in total not exceeding six month. When the Investigating Authority, in the course of an investigation, examine whether a tariff lower than the margin of dumping would be sufficient to remove injury, these periods may be six and nine months, respectively.
4. The preliminary opinions referred to in Paragraph 3 of this Article shall be submitted to the Government of Georgia by the Investigating Authority for the determination of preliminary anti-dumping tariff periods.
5. The preliminary anti-dumping measure may be imposed in the form of collateral as a cash deposit or a guarantee, which corresponds to a preliminarily estimated anti-dumping tariff, and does not exceed the preliminarily estimated dumping margin.
6. The preliminary anti-dumping tariff is a predetermined percentage calculated from the customs value of an object of investigation.
7. In case of imposition of preliminary anti-dumping tariff, the investigation should be completed before the expiration of the preliminary anti-dumping tariff time period.

Article 20 – Price Undertaking (Liability in Relation to Prices)

1. The exporter is entitled to refer to the Investigating Authority and make a voluntary undertaking in writing (*hereinafter* - the undertaking) to revise the determined price of an object of investigation, or to terminate the export of an object of investigation into the customs territory of Georgia at the dumping price (In case of existence of affiliated exporters in Georgia, support of the mentioned undertaking of the exporter by its affiliates), which enters into force upon the decision of the Government to approve the undertaking.
2. The undertaking may be accepted only after the Investigating Authority determines in the process of investigation that the existence of dumping that inflicts injury or the threat of injury on the domestic industry.

3. The Investigating Authority shall submit a preliminary opinion to the Government of Georgia, on the basis of which the Government of Georgia shall make a decision on the approval of the undertaking.
4. Investigating Authority shall develop a preliminary opinion, based on the analysis of the undertaking, on the reasonableness of approving the undertaking, which shall include a justification that the undertaking, without the imposition of a preliminary anti-dumping measure or special anti-dumping tariff, eliminates the negative effects of dumped imports, as well as on the information on the type and volume of the preliminary anti-dumping measure for the occurrence of the case provided in Paragraph 7 of Article 17 of the Law.
5. If the undertaking is deemed unreasonable, the Investigating Authority shall submit to the Government of Georgia a preliminary finding on the impossibility of the suspension of the dumping imports due to a large number of actual and potential exporters of an object of investigation or other relevant general policy interests of Georgia.
6. A positive determination on the reasonableness of approving the undertaking by the Investigating Authority suspends the investigation in accordance with Paragraph 1 of Article 16 of the Law. The suspended investigation will be terminated upon the expiration of the undertaking taken by the exporter.
7. In case of accepting undertaking by the exporter in accordance with Paragraph 4 of Article 17 of the Law, the suspended investigation may be continued on the basis of the exporter's request or a decision of the Investigating Authority.
8. The ground for a justified decision by the Investigating Authority to continue the suspended investigation is the evidence that the exporter's undertaking is no longer an effective remedy for the adverse effects of dumped imports.
9. In case of a decision to continue the investigation, the Investigating Authority shall notify the exporter, the Government of Georgia and the Government of the exporting country.
10. The Investigating Authority is authorized to periodically request information from the relevant persons on the fulfillment of the undertaking by the exporter.
11. In case of breach of the undertaking, in accordance with Paragraph 7 of Article 17 of the Law, the Investigating authority shall issue an individual administrative legal act on the continuation of the suspended revision.

Article 21. Special Anti-Dumping Tariff

1. In case of injury or threat of injury to the domestic industry when an object of investigation is imported at the dumped price the Investigating Authority shall submit an opinion to the Government of Georgia regarding the imposition of a special anti-dumping tariff.
2. The special anti-dumping tariff is a predetermined percentage calculated from the customs value of an object of investigation.

3. A special anti-dumping tariff is imposed for no more than 5 years. This period shall be calculated from the date of imposition of the special anti-dumping measure.
4. A special anti-dumping tariff is set for each exporter individually, taking into consideration the individual dumping margin.
5. If a common dumping margin is determined by the Investigating Authority, an anti-dumping tariff shall be imposed for each known foreign exporter or manufacturer of an object of investigation in line with the principle of non-discrimination.
6. If an individual dumping margin has not been determined for any exporter or manufacturer of the product, a special anti-dumping tariff will be imposed on them in proportion to the higher individual dumping rate relative to the weighted average price of the dumped import and the average export price of the object of investigation.
7. The opinion on the imposition of a special anti-dumping tariff, together with the information provided by the legislation, shall indicate the exporting country/countries and/or the exporter(s), the tariff volume (percentage) and the period of validity of the tariff.

Article 22. Completion of the Investigation

Based on the results of the investigation, the Investigating Authority shall submit to the Government of Georgia opinions on the reasonableness of imposing, revising or eliminating the special anti-dumping tariff.

Annex 1: Form of a written application filed by or on behalf of a domestic industry

Application

1. General information

a) Applicant(s):

1. Full name, Personal Number (for individuals); Name, Identification Number (For legal entities):

2. Address:

3. Phone:

4. E-mail:

Standing of the applicant:

Other manufacturers in Georgia:

b) Allegedly dumped product description:

If there is more than one product, please fill in this section for each product separately

c) Description of the exporting countries and exporters of an object under investigation:

If there is more than one exporter, please fill in this section for each exporter separately

d) Importers of an object under investigation in Georgia:

e) Manufacturers, who use an object of investigation in the process of production and consumers in Georgia:

2. Alleged Dumping

a) Normal Value:

b) Export Price:

c) Price Comparison:

d) Dumping margin:

3. Injury

(Provide the data from last three years)

a) Total volume of market of the like product in Georgia, including volume of domestic production:

b) Volume and market share of allegedly dumped imports:

c) Price of dumped imports:

d) Impact on price undercutting:

e) Other injury factors of the applicant:

Production capacity and capacity utilization of the applicant:

Sales, market share and exports of the applicant:

Sales price of the like product manufactured by the applicant:

Cost of products sold by the applicant:

Profitability of the applicant:

Rates of employment of the applicant:
Investment of the applicant:
Stock variations:
4. Causal Link
a) Impact of the dumped imports:
b) Impact of other factors:
5. Conclusion
6. Applicants' request to classify information as a commercial secret
(Please, indicate precisely the information you would like to classify as a commercial secret, and please provide the reasons)
7. List of annexes to the application
Standing of the domestic industry:
Title:
Title
Title

I certify that the information provided in application is accurate and I am aware of the legal consequences of the provision of incorrect information as defined by the legislation of Georgia.

Applicant(s)/representative's signature -----

Date: -----