

**Committee on Anti-Dumping Practices
Committee on Subsidies and Countervailing Measures**

Original: English

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

Questions Posed by the UNITED STATES Regarding
the Notification of the KYRGYZ REPUBLIC¹

The following communication, dated 23 March 2000, has been received from the Permanent Mission of the United States.

1. Article 4 of the Anti-Dumping Law of the Kyrgyz Republic (the “Law”) indicates that in addition to the Law, anti-dumping legislation will include other legislative and normative legal acts of the President and Government of Kyrgyz Republic. What specific laws and regulations are contemplated by this Article and when are they expected to be adopted and notified to the WTO?
2. The Law’s definition of the term *injury* refers to “material losses” of the domestic industry. Does the term “material losses” have a different meaning than the term “material injury” used in Article VI:I of GATT 1947? If so, please explain what this meaning is and how it is consistent with Article VI:I.
3. The Law’s definition of the term “like goods” as “goods which are identical or similar” does not clearly explain the difference in sources of origin between the imported “goods” and domestic “like goods”. What goods are the “like goods” supposed to be similar to, or identical with according to this definition? Is there any difference between the terms “like goods” and “like products” used in the Law and the term “like product” used in Article 2.6 of the A-D Agreement?
4. The first paragraph of Article 8.2 requires an applicant to submit information “on the production of *a good* by an applicant” and “about the production of *the like product* by domestic producers known to the applicant” (emphases added). What is the reason for the use of two different terms to describe the domestically produced items?
5. How will the definition of the term “related parties” be used by the Authorized Body in the evaluation of injury to domestic producers? Will prices and other data concerning “the related parties” be excluded from the evidence of injury caused to domestic producers?
6. In addition to introducing the injury evaluation criteria established in Article 3.1 of the A-D Agreement, Article 25 of the Law requires evaluation of evidence with regard to the quality of dumped imports. What kind of evidence with regard to quality will be examined and what impact will such evidence have on findings of injury?

¹ G/ADP/N/1/KGZ/1 and G/SCM/N/1/KGZ/1

7. When the relevant data for the group of like products is not available, Article 28.3 of the Law requires the examination of data for “a more narrow group of products included into the group of like products”. This language appears to be in conflict with Article 3.6 of the A-D Agreement, which provides for the use of data for a broader category of products, which includes the like product. It states specifically that “the production data of the narrowest group or range of products, which includes the like product” can be used. What is the reason for this discrepancy? Is this the intended meaning of the Law or possibly a translation error?

8. Article 3.2 of the A-D Agreement states that investigating authorities should examine whether there is “significant price undercutting” by the dumped imports or whether their effect is to depress prices or prevent price increases “to a significant degree”. Article 27(2) does not state that underpricing, or price depression or suppression must be “significant”. How is this consistent with Article 3.2 of the A-D Agreement?

9. Article 4.2(ii) of the A-D Agreement allows investigations and findings of injury caused to producers of a regional market only if “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”. How does Article 30 of the Law meet these requirements?

10. What kind of protection of confidential information is available under existing Kyrgyz legislation as referenced by Article 34.4 of the Law? What kind of civil, criminal, or disciplinary penalties are imposed by such legislation for unwarranted disclosure of confidential information? What kind of procedural conditions will be imposed under the Law to allow access of interested parties to confidential information?

11. Does Article 38.2 contemplate more than one hearing in an investigation by stating that “each party shall be entitled for one hearing to be held”? What kind of justification is required by Article 38.4 to request an “additional hearing”? What other procedural requirements will apply to ensure fairness and transparency of hearings, such as public notifications, witness testimonies, availability of transcripts, opportunity to provide written submissions by the parties, etc.? Will the joint hearing be held with more than one party to allow for exchange of views, arguments and rebuttals by the interested parties?

12. Article 42 of the Law allows for imposition of provisional measures for a period of six months with the right to extend the period to nine months “in case where provisional anti-dumping measures are not sufficient to eliminate injury within six months”. Can the Kyrgyz Republic explain the discrepancy between this provision and Article 7.4 of the A-D Agreement which limits the imposition of provisional measures to a term of six months when the lesser-duty rule is applied, unless “exporters representing a significant percentage of the trade involved” request an extension so that provisional measures can be imposed for up to nine months?

13. Article 48.5 of the Law provides that the administering authority shall terminate the anti-dumping investigation and issue a final determination to impose anti-dumping duties if there is evidence of (a) a history of injurious dumping and (b) the injury cause by massive dumping imports of the subject product in short time is likely to seriously undermine the remedial effect of the anti-dumping duty being introduced. Please give examples of the type of evidence that would be sufficient to demonstrate a history of dumping. Why would a *history* of dumping and injury be sufficient to *terminate* an ongoing anti-dumping investigation and impose duties?

14. What kind of “order stipulated by legislation of the Kyrgyz Republic” is required in Article 58 to obtain access to judicial review of the decisions made by the Authorized Body?
