



Lao People Democratic Republic
Peace Independence Democracy Unity Prosperity

Ministry of Industry and Commerce

No. 0464/MOIC.DFTP
Vientiane, Capital, 12 May 2020

Instruction
On the Implementation of Articles 10, 11 and 18
Of the Law on Anti-Dumping and Countervailing Measures,
No. 65/NA, dated 14 June 2019

- Pursuant to the Law on Anti-Dumping and Countervailing Measures, No. 65/NA, dated 14 June 2019;
- Pursuant to the Decree on the Establishment and Activities of Ministry of Industry and Commerce, No. 230/PM, dated 24 July 2017;
- Based on the letter of proposal of the Department of Foreign Trade Policy, No. 0014/DFTP, dated 10 January 2020,

In order to develop the contents of the Articles 10, 11 and 18 of the Law on Anti-Dumping and Countervailing Measures, No. 65/NA, dated 14 June 2019, No. 27/NA, dated 30 October 2017 and ensure practical and uniform application and efficient and effective implementation.

The Minister of Industry and Commerce issues the instruction:

I. Determination of normal value

Determination of normal value when there are no sales of like product in the domestic market of the exporting country or when such sales of products do not permit a proper comparison because of the particular market situation or such sales have a product volume less than five percent of the sale volume of exported products for sales in the Lao PDR as provided for in Article 10, the normal value shall be determined based on the following prices:

1. Export price of like product in the country which imported the investigated products if there is reasonable ground to believe that such price reflects the price in the exporting country's market,

The normal value shall be determined based on the volume of product sales in the importing country more than the volume of product sales of another country, provided that such products shall be like products exported into Lao PDR; or the investigation committee may consider based on other factors as deemed appropriate.

2. Price calculated from production cost of origin country plus amount for administrative, sale, and general costs, including for profits incurred,

The price shall be calculated based on the information of accounting records of the exporters or producers of the investigated products in the course of investigation, provided that such records are in accordance with the generally accepted accounting principles of the exporting country and reasonably reflect the costs associated with production and sale of the products under consideration.

II. Formula of calculation of dumping margin

Determination of dumping margin as provided for in Article 11 of the Law has the following formula:

1. Formula of calculation of dumping margin

$$\text{Dumping margin} = (\text{difference} \div \text{export price}) \times 100$$

2. Formula of calculation of difference

The calculation to establish the difference between the normal value and export price of commercial transactions at the same level of trade and of sales made during a similar time is comprised of three methods of comparison as below:

1) Comparison between weighted average normal value and weighted average export price.

Comparison shall be made by comparison of a weighted average normal value with a weighted average export price which is the average price of the volume and time of sales or export of investigated products due to the fact that each sale or export has a different volume, and such volume resulted in difference in normal value and export price. The calculation formula is as below:

$$\text{Difference} = \text{weighted normal value} - \text{weighted average export price}$$

Calculation of a weighted average normal value shall be made by multiplying the total weighted average values plus the total weighted prices, and dividing by the total volume as below:

$$\text{Weighted average values} = [(\text{price 1} \times \text{volume 1}) + (\text{price 2} \times \text{volume 2}) + (\text{price 3} \times \text{volume 3})] \div [(\text{volume 1} + \text{volume 2} + \text{volume 3})]$$

2) Comparison between normal value and export price of each commercial transaction

Comparison shall be made by comparison of the normal value of each domestic sale transaction of the exporting country with the export price of each export transaction. The calculation formula is as below:

$$\text{Difference} = \text{normal value of transaction of each item} - \text{export price of each item transaction}$$

- 3) Comparison between weighted average normal value and export price of each commercial transaction

Comparison shall be made in case where there is difference in export prices between the purchasers, areas or export periods based on a comparison of the weighted average normal value with the export price of each commercial transaction. The calculation formula is as below:

Difference = weighted average normal value – export price of each commercial transaction

III. Methodology of determination of material injury

Determination of material injury to domestic producers from dumping or countervailing of the exporting country shall be investigated from clear and continuous information of three evidences as provided for in Article 18 of the Law in comparison with information dated not more than five years prior as follows:

1. Volume of the dumped or subsidized product imports of the exporting country has significantly increased either in absolute terms or relative to production or consumption in Lao PDR.

This shall be investigated from evidence or information on the change of product imports whether there has been a significant increase in volume or change in increased percentage of imports when comparing with the production volume of producers or domestic consumption in Lao PDR.

If the investigation outcome falls in any of the following cases, it shall not be considered as a material injury, and the information investigation committee shall terminate the investigation:

- 1) The volume of imports of the dumped products is less than three percent of the volume of imports for the like products in Lao PDR;
 - 2) The volume of imports of the whole dumped products from each country is less than seven percent of the total volume of imports for the like products;
 - 3) The volume of the exporting country's subsidized products which have their origin from the developing countries and members of the World Trade Organization is less than four percent of the volume of imports for the like products;
 - 4) The volume of the exporting country's whole subsidized products from each country is less than nine percent of the volume of imports for the like products.
2. Effect of the dumped or subsidized product imports of the exporting country on prices in the domestic market for like products in Lao PRD has caused the domestic producers to undercut prices or decrease prices or prevent price increases.
 - 1) Price undercutting is to compare between the price of the dumped or subsidized product imports with the sale price of the like products of the domestic producers which shall be the price at the same level of trade. Price at the same level of trade has the meaning as illustrated by the two examples as below:

Example 1: If taking the price of the dumped or subsidized imports of the exporting country which determined as the ex-factory price, such price shall be to compare with the ex-factory price of the domestic producers as well.

Example 2: If assessing the price of the dumped or subsidized imports of the exporting country which determined as price including freight and insurance, such price shall also be compared with the price including freight and insurance of the domestic producers, and in this case, it shall not be allowed to utilize the ex-factory price to compare with the price including freight and insurance.

- 2) Price decreases: shall be considered whether the price of like products of the domestic producers has been declined so that price can be competitive with the dumped or subsidized imports of the exporting country.
 - 3) Sales preventing price increases: shall be considered whether the dumped or subsidized import of the exporting country has caused the price of the like products of domestic producers not able to be increased or the sale of such products is lower the cost of production if compared to the production cost of domestic producers or such products cannot be sold at an increased price proportionate to the production cost.
3. Effect of dumped or subsidized product imports of the exporting country on domestic producers

It shall be considered based on the actual effects or negative effects on the following factors which shall be investigated based on the general guidelines as below:

- 1) Effect on gross sale shall be considered based on the decrease of volume or value of the sale of the like products domestically produced. The calculation formula is as below:

Effect on gross sale [(volume or value of sale of investigation year - volume or value of sale in previous year ÷ volume or value of sale in previous year)] x 100

Method of calculation of volume or value of sale is:

Volume of sale = volume of manufactured products – remaining products

Value of sale = value of sold products x per unit price

- 2) Effect on profits sale shall be considered based on the decrease of profits from production and sale of like products by domestic producers. The calculation formula is as below:

Effect on profits = [(profits of investigation year – profits in previous year) ÷ profits in previous year] x 100

Method of calculation of profit or loss is as below:

Profit = [(value of sale) – (production costs + administrative costs)]

- 3) Effect on outputs shall be considered based on the decrease of the volume of production of the like products domestically produced. Calculation formula is as below:

Effect on outputs = [(outputs of investigation year – outputs in previous year) ÷ outputs in previous year] x 100

- 4) Effect on market share shall be considered based on the domestic producers' market share which has been decreased due to the variation of percentage of the increased market share of the dumped or subsidized imports of the exporting country on all domestic product markets when comparing to the percentage of market share in the previous year. Calculation formula is as below:

Effect on market share = percentage of market share of investigation year - percentage of market share in the previous year

Method of calculation of market share percentage is as below:

Percentage of market share = (value of imported product sale ÷ total value of domestic product sale) x 100

- 5) Effect on productivity shall be considered based on the decrease of the effectiveness of production of the like products of the domestic producers. The calculation formula is as below:

Effect on productivity = [(effectiveness of investigation year – effectiveness in previous year) ÷ (effectiveness in previous year)] x 100

Method of calculation of productivity is as below:

Productivity = total outputs ÷ production factors

- 6) Effect on return on investments shall be considered based on the decrease of percentage of domestic producers' return on investments in production and sale of like products of domestic producers when comparing to the return on investments in previous year. Calculation formula is as below:

Effect on return on investments = [(incomes from investments – expenses used in investments) ÷ (expenses used in investments)] x 100

- 7) Effect on utilization of capacity shall be considered based on the decrease of percentage of use of capacity in producing like products of domestic producers when comparing to use of capacity of production in previous year. The calculation formula is as below:

Effect on utilization of capacity = percentage of use of capacity of investigation year - percentage of use of capacity of production in previous year

Method of calculation of utilization of capacity is as below:

Percentage of use of capacity = (actual outputs ÷ capacity of maximum outputs) x 100

Method of calculation of maximum outputs capacity is as below:

Capacity of maximum outputs = working hours of machine ÷ actual time used in one product unit

- 8) Factors affecting domestic prices shall be considered based on the decrease of prices of domestic like product sales from the prices of the exporting country's dumped or subsidized products which are imported for domestic sale.
- 9) Effect on cash flow shall be considered based on the decrease of the aggregated cash flows from business activities of domestic producers. The calculation formula is as below:

Effect on cash flow = [(aggregated cash flows from business activities of investigation year) – (aggregated cash flows from business activities in previous year) ÷ (aggregated cash flows from business activities in previous year)] x 100

Method of calculation of aggregated cash flow from the business activities is as below:

Aggregated cash flows from business activities = profits + price depreciation + working capital variation costs

Method of calculation of working capital is as follows:

Working capital = working assets – working liabilities

Working capital variation costs = working capital of actual year – working capital in previous year

Depreciation means costs deducted from the value of immovable assets used in business activities of domestic producers, such as, buildings, equipment, machineries with high values and long term of use.

- 10) Effect on inventories shall be considered based on the increase of the like product inventories of domestic producers. The calculation formula is as below:

Effect on inventories = [(volume of inventories of investigation year) – (volume of inventories in previous year) ÷ (volume of inventories in previous year)] x 100

Method of calculation of inventories is as follows:

Inventories = volume of inventories of manufactured products – volume of product sale

- 11) Effect on employment shall be considered based on the decrease of employment costs used in production and administration for the like products of the domestic producers due to producers have attempted to reduce to cost of production. The calculation formula is as below:

Effect on employment = [(employment costs of investigation year) - (employment costs in previous year) ÷ (employment costs in previous year)] x 100

Method of calculation volume of employment is as below:

Employment costs = production employment costs + administration employment costs

- 12) Effect on wages shall be considered based on the decrease of wages for production and administration for the like products of the domestic producers. Calculation formula is as below:

Effect on wages = [(wages of investigation year) – (wages in previous year) ÷ (wages in previous year)] x 100

Method of calculation volume of wages is as below:

Wage = wage per day of production or administration x number of worked days

13) Effect on business growth percentage shall be considered based on the decrease of income obtained from business operations because the domestic producers are not able to increase the volume of sales at the same percentage as the increase of volume of domestic consumption due to the increase of dumped or subsidized product imports from the exporting country. The calculation formula is as below:

$$\text{Effect on business growth} = \frac{[(\text{incomes of investigation year}) - (\text{incomes in previous year})]}{(\text{incomes in previous year})} \times 100$$

14) Effect on ability to raise capital or investment shall be considered based on the fiscal budget, if it is found that the domestic producers have suffered from successive accrued losses which have been obstructed the raising capital or investments.

$$\text{Effect on ability to raise capital or investment} = \frac{[(\text{loss outcomes of investigation year}) - (\text{loss outcomes in previous year})]}{(\text{loss outcomes in previous year})} \times 100$$

Method of calculation of loss outcomes is as below:

$$\text{Loss outcomes} = [(\text{production costs}) + (\text{administration costs}) - (\text{value of product sale})]$$

IV. Implementation

Assign the Department of Foreign Trade Policy and Ministry of Industry and Commerce to be the principal for collaboration with other relevant sectors to effectively implement this Instruction.

This Instruction is effective from the signing date and fifteen official working days from its publication in the official gazette.

Minister of Industry and Commerce
[Signature & Seal]
Mrs. Khemmany Pholsena