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**1 ARTICLE 6 OF THE AGREEMENT ON IMPLEMENTATION OF ARTICLE VI OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994**

**1.1 Text of Article 6**

**Article 6**

*Evidence*

6.1 All interested parties in an anti-dumping investigation shall be given notice of the information which the authorities require and ample opportunity to present in writing all evidence which they consider relevant in respect of the investigation in question.

6.1.1 Exporters or foreign producers receiving questionnaires used in an anti-dumping investigation shall be given at least 30 days for reply.<sup>15</sup> Due consideration should be given to any request for an extension of the 30-day period and, upon cause shown, such an extension should be granted whenever practicable.

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

6.1.2 Subject to the requirement to protect confidential information, evidence presented in writing by one interested party shall be made available promptly to other interested parties participating in the investigation.

6.1.3 As soon as an investigation has been initiated, the authorities shall provide the full text of the written application received under paragraph 1 of Article 5 to the known exporters<sup>16</sup> and to the authorities of the exporting Member and shall make it available, upon request, to other interested parties involved. Due regard shall be paid to the requirement for the protection of confidential information, as provided for in paragraph 5.

*(footnote original)* <sup>16</sup> It being understood that, where the number of exporters involved is particularly high, the full text of the written application should instead be provided only to the authorities of the exporting Member or to the relevant trade association.

6.2 Throughout the anti-dumping investigation all interested parties shall have a full opportunity for the defence of their interests. To this end, the authorities shall, on request, provide opportunities for all interested parties to meet those parties with adverse interests, so that opposing views may be presented and rebuttal arguments offered. Provision of such opportunities must take account of the need to preserve confidentiality and of the convenience to the parties. There shall be no obligation on any party to attend a meeting, and failure to do so shall not be prejudicial to that party's case. Interested parties shall also have the right, on justification, to present other information orally.

6.3 Oral information provided under paragraph 2 shall be taken into account by the authorities only in so far as it is subsequently reproduced in writing and made available to other interested parties, as provided for in subparagraph 1.2.

6.4 The authorities shall whenever practicable provide timely opportunities for all interested parties to see all information that is relevant to the presentation of their cases, that is not confidential as defined in paragraph 5, and that is used by the authorities in an anti-dumping investigation, and to prepare presentations on the basis of this information.

6.5 Any information which is by nature confidential (for example, because its disclosure would be of significant competitive advantage to a competitor or because its disclosure would have a significantly adverse effect upon a person supplying the information or upon a person from whom that person acquired the information), or which is provided on a confidential basis by parties to an investigation shall, upon good cause shown, be treated as such by the authorities. Such information shall not be disclosed without specific permission of the party submitting it.<sup>17</sup>

*(footnote original)* <sup>17</sup> Members are aware that in the territory of certain Members disclosure pursuant to a narrowly-drawn protective order may be required.

6.5.1 The authorities shall require interested parties providing confidential information to furnish non-confidential summaries thereof. These summaries shall be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. In exceptional circumstances, such parties may indicate that such information is not susceptible of summary. In such exceptional circumstances, a statement of the reasons why summarization is not possible must be provided.

6.5.2 If the authorities find that a request for confidentiality is not warranted and if the supplier of the information is either unwilling to make the information public or to authorize its disclosure in generalized or summary form, the authorities may disregard such information unless it can be demonstrated to their satisfaction from appropriate sources that the information is correct.<sup>18</sup>

*(footnote original)* <sup>18</sup> Members agree that requests for confidentiality should not be arbitrarily rejected.

6.6 Except in circumstances provided for in paragraph 8, the authorities shall during the course of an investigation satisfy themselves as to the accuracy of the information supplied by interested parties upon which their findings are based.

6.7 In order to verify information provided or to obtain further details, the authorities may carry out investigations in the territory of other Members as required, provided they obtain the agreement of the firms concerned and notify the representatives of the government of the Member in question, and unless that Member objects to the investigation. The procedures described in Annex I shall apply to investigations carried out in the territory of other Members. Subject to the requirement to protect confidential information, the authorities shall make the results of any such investigations available, or shall provide disclosure thereof pursuant to paragraph 9, to the firms to which they pertain and may make such results available to the applicants.

6.8 In cases in which any interested party refuses access to, or otherwise does not provide, necessary information within a reasonable period or significantly impedes the investigation, preliminary and final determinations, affirmative or negative, may be made on the basis of the facts available. The provisions of Annex II shall be observed in the application of this paragraph.

6.9 The authorities shall, before a final determination is made, inform all interested parties of the essential facts under consideration which form the basis for the decision whether to apply definitive measures. Such disclosure should take place in sufficient time for the parties to defend their interests.

6.10 The authorities shall, as a rule, determine an individual margin of dumping for each known exporter or producer concerned of the product under investigation. In cases where the number of exporters, producers, importers or types of products involved is so large as to make such a determination impracticable, the authorities may limit their examination either to a

reasonable number of interested parties or products by using samples which are statistically valid on the basis of information available to the authorities at the time of the selection, or to the largest percentage of the volume of the exports from the country in question which can reasonably be investigated.

6.10.1 Any selection of exporters, producers, importers or types of products made under this paragraph shall preferably be chosen in consultation with and with the consent of the exporters, producers or importers concerned.

6.10.2 In cases where the authorities have limited their examination, as provided for in this paragraph, they shall nevertheless determine an individual margin of dumping for any exporter or producer not initially selected who submits the necessary information in time for that information to be considered during the course of the investigation, except where the number of exporters or producers is so large that individual examinations would be unduly burdensome to the authorities and prevent the timely completion of the investigation. Voluntary responses shall not be discouraged.

6.11 For the purposes of this Agreement, "interested parties" shall include:

- (i) an exporter or foreign producer or the importer of a product subject to investigation, or a trade or business association a majority of the members of which are producers, exporters or importers of such product;
- (ii) the government of the exporting Member; and
- (iii) a producer of the like product in the importing Member or a trade and business association a majority of the members of which produce the like product in the territory of the importing Member.

This list shall not preclude Members from allowing domestic or foreign parties other than those mentioned above to be included as interested parties.

6.12 The authorities shall provide opportunities for industrial users of the product under investigation, and for representative consumer organizations in cases where the product is commonly sold at the retail level, to provide information which is relevant to the investigation regarding dumping, injury and causality.

6.13 The authorities shall take due account of any difficulties experienced by interested parties, in particular small companies, in supplying information requested, and shall provide any assistance practicable.

6.14 The procedures set out above are not intended to prevent the authorities of a Member from proceeding expeditiously with regard to initiating an investigation, reaching preliminary or final determinations, whether affirmative or negative, or from applying provisional or final measures, in accordance with relevant provisions of this Agreement.

## **1.2 Article 6.1.1: Requests for extension of time to provide information**

1. On 26 April 2001, the Committee on Anti-Dumping Practices adopted the following Recommendation Concerning Indicative List of Elements Relevant to a Decision on a Request for Extension of Time to Provide Information<sup>1</sup>:

"The Committee notes the obligation to complete investigations within the time limits set out in Article 5.10 of the Agreement on Implementation of Article VI of GATT 1994 and the obligation to allow parties a full opportunity for the defense of their interests set out in Article 6.2 of that Agreement.

The Committee recognizes that investigating authorities gather information necessary to make determinations in an anti-dumping investigation through

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<sup>1</sup> [G/ADP/M/18](#), section G. The text of the recommendation can be found in [G/ADP/7](#).

questionnaires and other requests for information, and establish deadlines for the submission of replies to such questionnaires and requests, as well as for other aspects of investigations, in order to ensure the orderly conduct and timely completion of the investigation. The Committee is mindful that each Members' investigating authority has discretion to grant or deny a particular request for extension of a particular deadline, in light of the facts and circumstances of the investigation at hand.

The Committee considers that a non-binding, non-exhaustive indicative list of elements relevant to a decision whether to grant or deny such a request for extension of time to respond to a questionnaire or other request for information would be useful. In light of the foregoing, the Committee considers that the following elements may be considered by an investigating authority in deciding whether to grant or deny a request for extension of time to provide information:

1. the time available for the conduct of the investigation and making the necessary determinations, including the time periods established in national legislation, regulations, and schedules governing the conduct of the investigation at hand, and whether the information can be considered in a subsequent phase of the investigation;
2. previous extension(s) of time granted to the same party in the same investigation;
3. the ability of the party from whom information is sought to respond to the request, in light of the nature and extent of the information requested, including the party's available resources, personnel, and technological capability;
4. any unusual burdens that will be incurred by the party being asked for information in searching for, identifying and/or compiling the information requested;
5. whether the party requesting the extension has provided a partial response to the request, or has previously provided information requested in the same investigation, although the absence of a partial response alone is not an appropriate basis for denial of a request;
6. any unforeseen circumstances affecting the ability of the party to provide the information requested within the time limit established;
7. whether other parties have been granted extensions of time for similar reasons during the same phase of the same investigation.

The decision whether to grant or deny a request for an extension of time to provide information should be made promptly, and if denied, the party making such a request should be informed of the reason for its denial."<sup>2</sup>

Current as of: December 2021

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<sup>2</sup> [G/ADP/7](#).