

China - Interim Regulations of the Ministry of Foreign Trade and Economic cooperation
on Punishment for Conduct of Exporting at Lower-than-Normal Price, 1996

MOFTEC

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1 **Interim Regulations of the Ministry of Foreign Trade and
Economic cooperation on Punishment for Conduct of
Exporting at Lower-than-Normal Price
(Promulgated by Decree NO.1 of Ministry of Foreign
Trade and Economic cooperation on March
20,1996)**

2 **Article 1**

3 These interim regulations are formulated in accordance with the
Foreign Trade Law and the Anti-Unfair Competition Law of the
People's Republic of China, to ensure orderly development of the
country's export trade, safeguard the legitimate rights and inter-
ests of the State and enterprises and prevent conduct of exporting
at lower-than-normal price.

4 **Article 2**

5 These regulations apply to the conduct of selling export products
at lower-than-normal price by export enterprises.

6 The export enterprises mentioned in these regulations refer to those
in the People's Republic of China who engage in foreign trade
with approval from the departments in charge of foreign trade and
economic cooperation; the export products mentioned refer to the
products for export which are produced, manufactured, processed
or assembled in the People's Republic of China and their origin is
China according to the Rule on the Origin of Export Goods of the
People's Republic of China .

7 **Article 3**

8 The Ministry of Foreign Trade and economic Cooperation of the

People's Republic of China (hereinafter referred to as MOFTEC) is
the department which is responsible for punishing the conduct of
exporting at lower - than -normal price. The work group set up spe-
cially for this work in MOFTEC is in charge of investigations related
to the punishment of the conduct of exporting at lower -than-normal
price, and makes suggestions to MOFTEC on the settlement of any
such case.

Article 4

9

All export enterprises shall make serious market surveys, enhance
business accounting, follow the coordination by various chambers
of commerce for import and export trade, and set export prices
which are suitable in countries to which the goods are exported.

10

Article 5

11

A conduct of exporting at lower-than-normal price means that the
export price is lower than the necessary price for the product of the
enterprise.

12

The export price shall be calculated based on the amount of foreign
exchange which should be charged on the product of the export
enterprise.

13

The necessary price shall comprise of the cost for the production
of the export product in China, the expenses for storage, transport
insurance and management which are needed in foreign trade and
reasonable profit.

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Article 6

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MOFTEC shall mete out the following punishments on enterprises

16

which commit conducts of exporting at lower -than- normal price:

17 1.Circulating a notice of criticism or giving a warning;

18 2.Export enterprises which cause losses to the state or related enterprises by exporting at lower-than-normal price shall be fined, the fine shall be not less than 60 percent of the actual amount of income from the conduct of exporting at lower-than-normal price;

19 3.Export enterprises which have repeatedly committed the conduct of exporting at lower-than-normal price and caused serious losses to the state and related enterprises shall be fined in accordance with Section 2 of this Article. If the export enterprise refuses to accept the punishment within 30 days after the fine notice is received, the enterprise's right to applying and bidding for export quotas of the related products or some part of the products shall be suspended or revoked, or its export license for the related products or some part of the products shall be suspended or revoked or the enterprise's permit to foreign trade shall be suspended or revoked.

20 **Article 7**

21 Any unit or individual can on the basis of facts, make a report directly or via a chamber of commerce for import and export trade or an association of foreign - funded enterprises to MOFTEC against an export enterprise which has committed the conduct of exporting at lower-than-normal price. The report can include;

22 1.The name of the product that has been exported at lower-than-normal price;

23 2.The name of the enterprise which has committed the conduct of exporting at lower-than-normal price;

24 3.The amount of the exported product and the amount of money involved;

4.relevant documents and materials that can prove the conduct of exporting at lower-than-normal price. 25

Article 8 26

27 MOFTEC shall, based on a report or any other tips, make a decision on whether to place a case on file for investigation of the export enterprise which has been charged with committing the conduct of exporting at lower-than-normal price. Such a decision shall be made within 30days after a report is received.

Article 9 28

29 After the case is placed on file MOFTEC can entrust the related chamber of commerce for import and export trade, association of foreign-funded enterprises or local department in charge of foreign trade and economic cooperation to make an investigation of the export enterprise which has been charged with committing the conduct of exporting at lower-than-normal price. When the case is serious, MOFTEC can make the investigation itself. The investigation shall cover any such conduct within one year before the date the case is placed on file.

Article 10 30

31 The decision on place a case on file for investigation shall be made in written form, which will include the facts that have been known, the name of the enterprise to be investigated and the name of the institution entrusted to carry out the investigation, and the decision shall be made public.

Article 11

33 The investigation shall normally end within 90 days from the date the decision is made public.

34 The unit entrusted to carry out the investigation shall, within 10 days from the conclusion of the investigation, report the results of the investigation to MOFTEC and also make suggestions on the settlement of the case.

35 MOFTEC shall, based on the results of the investigation and the suggestions, make and publicize a decision in written form on the settlement of the case within 45 days from the conclusion of the investigation. The decision shall take effect on the day it is made public.

Article 12

37 MOFTEC shall, in accordance with relevant laws and regulations, keep confidential the report against the conduct of exporting at lower-than-normal price made by any unit or individual.

38 MOFTEC shall reward and commend any unit or individual who retrieves a loss for the state or enterprise.

Article 13

40 In case a punished export enterprise, legal representative or person directly responsible for the conduct of exporting at lower-than-normal price disagrees with the punishment decision, the enterprise, representative or person can apply to the Administrative Appeal Committee of MOFTEC for re-examination of the case in accordance with the Regulations on Administrative Appeal of the People's Regulations on Administrative Appeal of the People's Republic of China; in case the party still disagrees with the re-examination

32 decision, it can take legal proceedings against the decision at a people's court in accordance with the Administrative Procedure Law of the People's Republic of China. The original punishment decision shall remain effective during the period of appealing for re-examination or legal proceedings.

Article 14

41 These regulations apply to any conduct of exporting at lower-than-normal price that occurs after the regulations go into force. 42

Article 15

43 The right to interpret these regulations resides in MOFTEC. 44

Article 16

45 These regulations go into force on the date they are made public. 46

SiSU Metadata, document information

Document Manifest @:

<http://www.jus.uio.no/lm/en/manifest/china.anti.dumping.sanctions.interim.regulations.1996.html>

Title: China - Interim Regulations of the Ministry of Foreign Trade and Economic cooperation on Punishment for Conduct of Exporting at Lower-than-Normal Price, 1996

Creator: MOFTEC

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Publisher: SiSU <http://www.jus.uio.no/sisu> (this copy)

Date: 1996-03-20

Topics Registered: statute:China;anti-dumping law:China

Version Information

Sourcefile: china.anti.dumping.sanctions.interim.regulations.1996.sst

Filetype: SiSU text 2.0, ASCII text, with very long lines

Source Digest: SHA256(china.anti.dumping.sanctions.interim.regulations.1996.-sst)=a11c2ca8eb72b8c1b83f1e813d3377d4f7b5113bd21dd668a6fc45ee8927a735

Generated

Document (ao) last generated: 2015-09-21 15:06:33 -0400

Generated by: SiSU 7.1.5 of 2015w22/2 (2015-06-02)

Ruby version: ruby 2.1.5p273 (2014-11-13) [x86_64-linux-gnu]