

ANNEX 8
to the Treaty on the
Eurasian Economic Union

PROTOCOL
on Application Of Safeguard, Antidumping And Countervailing Measures With Regard to
Third Countries

I. General Provisions

Scope of application and basic terms

1. This Protocol is developed in accordance with Articles 48 and 49 of the Treaty on the Eurasian Economic Union and determines the application of safeguard, antidumping and countervailing measures with regard to third countries in order to protect economic interests of producers of products in the EAEU.

2. Terms used in this Protocol mean the following:

“like product” is a product that is identical to the product under investigation (review), or in the absence of such a product – other product, which has characteristics similar to those of the product under investigation (review);

“antidumping measure” is a measure to counteract dumped imports, which is introduced by a decision of the Commission by means of imposing antidumping duty, including the provisional antidumping duty, or approval of the voluntary price undertakings from an exporter;

“antidumping duty” is a duty that is imposed with the introduction of antidumping measure and charged by customs authorities of the member States regardless of levying of import duty;

“dumping margin” is the percentage ratio of normal value of product excluding export prices of such product to the export price or the difference between the normal value of product and the export price, expressed in absolute terms;

“import quota” is a limit on imports of product to the customs territory of the EAEU with respect to its quantity and (or) value;

“countervailing measure” is a measure to counteract the effect of specific subsidies of exporting third country on sector of economy of member States that is applied by the decision of the Commission by means of introduction of countervailing duty or approval of voluntary undertakings by the authorized body of subsidizing third country or exporter;

“countervailing duty” is a duty that is applied with the introduction of countervailing measure and charged by customs authorities of the member States, regardless of levying import duty;

“material injury to sector of economy of the member States” is positive evidence of deterioration of the sector of economy of the member States, which may be expressed in particular decrease in the volume of production and sales of the like product in the member States, reducing the profitability of production of such product, as well as a negative effect on inventories, employment, wages in the sector of the economy of the Parties and the level of investment in this sector of the economy of the member States;

“directly competitive product” is a product that is comparable with the product under investigation (review), in its intended purpose, use, quality and technical characteristics, as well as other basic properties so that a buyer is willing to replace or substitute it during the consumption by products under investigation (review);

“ordinary course of trade” is the purchase and sale of the like product on the market of the exporting foreign country at a price not lower than its weighted average cost, determined on the basis of weighted average costs of production and sales, administrative and general costs;

“payers” are persons determined in accordance with the Customs Code of the EAEU;

“provisional antidumping duty” is a duty applied when importing the product to the customs territory of the EAEU, in respect of which the investigating body has made a preliminary conclusion in the course of investigation on existence of dumped imports and the resulting material injury to the sector of economy of the member States, threat of such

injury or a significant delay in the establishment of the sector of economy of the member States;

“provisional countervailing duty” is a duty applied when importing the product to the customs territory of the EAEU, in respect of which the investigating body has made a preliminary conclusion in the course of investigation on existence of subsidized imports and the resulting material injury to the sector of economy of the member States, threat of such injury or a significant delay in the establishment of the sector of economy of the member States;

“provisional special duty” is a duty applied when importing the product to the customs territory of the EAEU, in respect of which the investigating body has made a preliminary conclusion in the course of investigation on existence of increased imports and the resulting serious injury or threat of injury to the sector of economy of the member States;

“previous period” is a 3 calendar years immediately preceding the date of filing the application for an investigation and for which the necessary statistical data is available;

“related parties” - persons who meet one or more of the following criteria:
each of these persons is an employee or director of an organization established with the participation of another person;

persons are business partners, that is they are bound by contractual relationship, operate for profit and jointly bear the costs and losses related with the implementation of joint activities;

persons are employers and employees of the same organization;

any person directly or indirectly owns, supervise or is the nominal holder of 5 percent or more of the voting shares or shares of both persons;

one of the persons directly or indirectly supervise another person;

two persons together directly or indirectly supervised by a third person;

two persons together directly or indirectly supervise a third entity;

persons are in marital relations, kinship relations, or are adoptive parent and an adoptee, as well as a trustee or a ward.

At the same time the direct supervision means the possibility of legal or natural person to determine the decisions made by a legal person through one or more of the following actions:

- Carrying out the functions of its executive body;
- Obtaining the right to determine the conditions of entrepreneurial activity of a legal person;
- The disposal of more than 5 percent of the total number of votes on shares (stakes) in the authorized (reserve) capital (fund) of a legal person.

The indirect supervision means the possibility of legal or natural person to determine the decisions made by a legal person through a natural or a legal person or by several legal persons between whom there is no direct supervision.

“serious injury to sector of economy of the member States” is positive evidence of general deterioration of the situation related to the production of like or directly competitive product in the member States, which is expressed in significant deterioration in industrial, commercial and financial situation of the sector of economy of the member States;

“safeguard measure” is a measure to limit the increased imports to the customs territory of the EAEU which is introduced by the decision of the Commission by imposing an import quota, special quota or special duty, including a provisional special duty;

“special quota” is establishment of a certain volume of import of product to the customs territory of the EAEU, which product is delivered to the customs territory of the EAEU without payment of a special duty, in excess of this volume – with payment of special duty;

“special duty” is a duty applied in introduction of safeguard measure and collected by customs authorities of member States regardless of levying import duty;

“subsidized import” is an import of a product to the customs territory of the EAEU, production, export or transit of which is subsidized by the exporting state.

“third countries” are countries and (or) association of countries which are not participants of the Treaty as well as the territories included to Qualifier of the countries of the world, approved by the Commission;

“subsidizing body” is a public body or a local government body of exporting third country or a person acting on behalf of relevant public body or local government body or authorized by relevant public body or local government body in accordance with a legal act or on the basis of factual circumstances;

“threat of material injury to the sector of economy of member States” is positive evidence of the inevitability of material injury to sector of economy of member States;

“threat of serious injury to sector of economy of member States” is positive evidence of the inevitability of serious injury to sector of economy of member States;

“export price” is a price paid or shall be paid when importing product into the customs territory of the EAEU.

II. Investigation

1. Goals of investigation

3. Before the introduction of safeguard, antidumping or countervailing measure on import of a product, investigation shall be conducted in order to determine:

existence of increased imports to the customs territory of the EAEU and the resulting serious injury to sector of economy of member States or threat of it;

existence of dumped or subsidized imports to the customs territory of the EAEU and the resulting material injury to sector of economy of member States or threat of it or a significant delay in the establishment of sector of economy of member States.

2. The investigating body

4. The investigating body acts within the powers conferred upon it by international treaties and acts that constitute law of the EAEU.

5. The investigating body as a result of the investigation provides the Commission with a report, containing proposals on expediency of application or extension of safeguard, antidumping or countervailing measure, or review or cancellation of safeguard, antidumping or countervailing measure, and it is attached with the draft of the relevant act of the Commission.

6. Review of safeguard, antidumping or countervailing measure provides its modification, cancellation or liberalization on the basis of the results of the review.

7. In cases provided for in paragraphs 15-22, 78-89, 143-153 of this Protocol, the investigating body, prior to completion of the investigation, provides the Commission with a report containing proposals on the expediency of the imposition and application of provisional special, provisional antidumping or provisional countervailing duty with attached draft of relevant decision of the Commission.

8. Evidences and information provided to the investigating body as well as correspondence with the investigating body shall be in Russian language, and the original documents that are compiled in foreign language must be accompanied by a verified translation into Russian language (with certification of presented translation).

III. Safeguard Measures

1. General principles of application of safeguard measures

9. A safeguard measure shall be applied to the product imported into the customs territory of the EAEU from exporting third country, irrespective of the country of its origin, with the exception of:

product originating from developing or least developed third country which uses a unified system of preferences of the EAEU, until the share of imports of the product from the country exceeds 3 percent of total imports of the product to the customs territory of the EAEU, provided that the total share of imports of the product from developing and least developed third countries, the share of each of which accounts for no more than 3 percent of total volume of imports of the product to the customs territory of the EAEU, shall not exceed 9 percent of total imports of the product to the customs territory of the EAEU;

product originating from a member State of Commonwealth of Independent States, which is a Party of the Treaty on the free trade dated October 18, 2011, provided the fulfillment of conditions specified in the article 8 of the indicated Treaty.

10. The Commission shall take a decision on the extension of safeguard measure for product originating from developing or least developed third country, which is

excluded from the safeguard measure in accordance with the paragraph 9 of this Protocol, in case as a result of review conducted by investigating body in accordance with the paragraphs 31,33 or 34 of this Protocol, it has been established that the share of imports of product from such developing or least developed third country exceeds the indicators, specified in the paragraph 9 of this Protocol.

11. The Commission shall take a decision on the extension of safeguard measure to the product originating from the member State of Commonwealth of Independent States, which is a Party of the Treaty on foreign trade zone dated October 18, 2011, excluded from the safeguard measure in accordance with the paragraph 9 of this Protocol, in case as a result of review conducted by investigating body, in accordance with the paragraphs 31,33 or 34 of this Protocol, it has been established that the conditions specified in the article 8 of the indicated Treaty are no longer fulfilled.

2. Determination of serious injury to the sector of economy of member States or threat of such injury as the result of increased import

12. In order to determine serious injury to the sector of economy of member States or threat of such injury as a result of increased imports to the customs territory of the EAEU, the investigating body in the course of investigation evaluates the objective factors that may be expressed in quantitative terms and affect the economic situation of the sector of economy of member States, including:

1) the rate and extent of growth of imports of the product under investigation, in absolute terms and relative terms to total volume of production or consumption of like or directly competitive product in member States;

2) the share of imported product under investigation in the total volume of sales of this product and like or directly competitive product in the market of the member States;

3) the level of prices of imported product under investigation, in comparison with level of prices for like or directly competitive product, manufactured in the member States;

4) the change in volume of sales of like or directly competitive product, manufactured in member States, on market of member States;

5) the change in volume of production of like or directly competitive product, productivity, capacity utilization, amount of profits and losses as well as level of employment in sector of economy of member States.

13. Determination of serious injury to the sector of economy of member States or threat of such injury as a result of increased imports shall be based on the analysis of all evidence and information relevant and available to the investigating body.

14. The investigating body in addition to the increased import analyses other known factors, which caused during the same period serious injury to the sector of economy of member States or threatens to cause such injury. This injury shall not be assigned to the injury of the sector of economy of member States due to increased imports to the customs territory of the EAEU.

3. The imposition of provisional special duty

15. In critical circumstances, where delay in application of safeguard measure would cause injury to the sector of economy of member States, which would be difficult to eliminate later, the Commission until the completion of appropriate investigation may take a decision on the imposition for a period not exceeding 200 days of a provisional special duty on the basis of preliminary determination of the investigating, according to which there is clear evidence that increased import of the product under investigation have caused or threatens to cause serious injury to the sector of economy of member States. The investigation shall be continued in order to obtain the final conclusion of the investigating body.

16. The investigating body notifies in writing authorized body of the exporting third country as well as other interested parties known to it about the possible imposition of a provisional special duty.

17. At the request of the authorized body of the exporting third country to hold consultations on the imposition of provisional special duty, such consultations shall be initiated after the adoption of the decision to impose the provisional special duty by the Commission.

18. If as the result of the investigation it is determined that there are no grounds for the imposition of safeguard measure or the decision on non-application of safeguard

measure in accordance with the paragraph 272 of this Protocol was taken, the amount of provisional special duty shall be returned to the payer in a manner specified in the annex to this Protocol.

The investigating body shall promptly inform customs authorities of member States about taking decisions, indicated in sub-paragraph 1 of this paragraph.

19. If as the result of the investigation it was considered to impose a safeguard measure (including in the form of import quota or special quota), the duration of provisional special duty shall be counted in the total duration of safeguard measure, and the amount of provisional special duty from the date of entry into force of decision on the application of safeguard measure taken by the results of investigation shall be credited and distributed in the manner specified in the appendix to this Protocol, taking into account provisions of paragraphs 20 and 21 of this Protocol.

20. If as the result of the investigation it was considered reasonable to impose a lower rate of special duty than the rate of provisional special duty, the amount of provisional special duty corresponding to the amount of special duty, calculated at statutory rate of special duty, shall be credited and distributed in the manner specified in the appendix to this Protocol.

The amounts of provisional special duty that exceed amount of special duty calculated at statutory rate of special duty shall be returned to the payer in the manner specified in the appendix to this Protocol.

21. If as the result of the investigation it was considered reasonable to impose a higher rate of special duty than the rate of provisional special duty, the difference between amounts of special duty and provisional special duty shall not be charged.

22. Decision to impose provisional special duty shall be taken, as a rule, not later than 6 months from date of initiation of investigation.

4. The application of safeguard measure

23. Safeguard measure shall be applied by the decision of the Commission in the amount and within the time period required to prevent or remedy serious injury to sector of economy of member States or threat of such injury, as well as to facilitate the adjustment of sector of economy of member States to the changing economic conditions.

24. If safeguard measure is applied through the imposition of import quota, the level of the import quota shall not be lower than the average annual volume of import of product under investigation (in quantity or value terms) for previous period, except the cases when it is necessary to impose a lower import quota to eliminate serious injury to sector of economy of member States or threat of such injury.

25. In case of the allocation of import quota among exporting third countries, those of them that are interested in exportation of the product under investigation to the customs territory of the EAEU shall be provided with opportunity to hold consultations on the allocation of import quota between them.

26. If the consultations provided for in paragraph 25 of this Protocol, or in the course of consultation arrangement on such distribution was not reached, import quota shall be distributed between exporting third countries interested in exporting of the product under investigation, to the customs territory of the EAEU, in proportion developed in importing of this product from these exporting third countries for previous period on the basis of total volume of imports of such product in quantity and value terms.

Any particular factors that might or may influence on the course of trade shall be taken into account.

27. If the rate of increase in imports of the product under investigation from individual exporting foreign countries has increased disproportionately to the total increase in imports of such product for three years preceding the date of filing the application for an investigation, the Commission may allocate import among those exporting third countries taking into account the absolute and relative growth rates of imports of such product to the customs territory of the EAEU from those exporting third countries.

The provisions of this paragraph apply only if the investigating body determines existence of serious injury to sector of economy to member State.

28. Procedure of application of safeguard measure in the form of import quota shall be determined by the Commission. If such Decision provides licensing of import, licenses shall be issued in the manner specified by the article 59 of this Treaty.

29. In the event that safeguard measure is applied by establishing of special quota, determination of amount, distribution and application of such quota shall be made in the manner specified for import quota in the paragraphs 24-28 of this Protocol.

5. Duration and review of safeguard measure

30. Duration of safeguard measure shall not exceed 4 years, except for the extension of such measure in accordance with the paragraph 31 of this Protocol.

31. Duration of safeguard measure referred to in the paragraph 30 of this Protocol may be extended by the decision of the Commission, if upon the results of review by the investigating body, it was determined that for the elimination of serious injury to sector of economy of member States or threat of such injury, and the extension of safeguard measure is necessary and there is evidence that relevant sector of economy of member States has adopted measure to facilitate adjustment of this sector of economy to changing economic conditions.

32. When the Commission takes a decision about extension of safeguard measure, such measure shall not be more restrictive than safeguard measure that was in force on the date when the decision extension of safeguard measure was made.

33. If duration of safeguard measure exceeds one year, the Commission gradually liberalises such safeguard measure in equal intervals throughout the period of its application.

If duration of safeguard measure exceeds 3 years, no later than half the period of application of this measure, the investigating body carries out a review that results in extension, liberalization or cancellation of the safeguard measure.

For the purposes of this paragraph, liberalisation of safeguard measure means an increase in the volume of import quota or special quota, or reduction of special duty rate.

34. Without prejudice to the provisions of the paragraph 33 of this Protocol, upon the initiative of the investigating body or upon request of interested person, review can be conducted in order to:

1) determine expediency of change, liberalization or abolition of safeguard measure in relation to changed circumstances, including clarification of product, which is an

object of safeguard measure, if there is a reason to assume that such product cannot be produced in the EAEU in course of application of this safeguard measure;

2) determine share of developing or least developed third countries in total volume of import of product to the customs territory of the EAEU.

3) determine fact of meeting the criteria set in the article 8 of this Treaty, for member State of Commonwealth of Independent States, which is a Party of the Treaty on foreign trade zone dated October 18, 2011.

35. Application for carrying out the review for the purposes specified in the subparagraph 1 of this paragraph, can be accepted by the investigating body, if at least one year has passed after the imposition of safeguard measure.

36. In the course of reviews taking into account relevant differences the provisions relating to the investigations shall be applied.

37. Total duration of safeguard measure, including duration of provisional special duty and the period for which a safeguard measure is extended shall not exceed 8 years.

38. Safeguard measure cannot be reapplied to the product to which safeguard measure was previously applied, during the period equal to the duration of previous safeguard measure. At the same time period during which the safeguard measure was not applied cannot be less than 2 years.

39. Safeguard measure, the duration of which is 180 days or less, regardless of provisions set by the paragraph 37 of this Protocol, can be applied again for the same product, if passed at least one year from the moment of introduction of previous safeguard measure and safeguard measure was not applied for such product more than 2 times during 5 years, preceding the date of introduction of new safeguard measure.

IV. Antidumping Measures

1. General principles for application of antidumping measure

40. The product is a subject to the dumped imports, if the export price for such product is lower than its normal value.

41. Period of investigation when information for the purpose of determining existence of dumped import is analyzed shall be determined by the investigating body.

At the same time, such period shall be equal, as a rule, to 12 months, preceding the date of filing of application for the investigation, but in any case this period shall not be less than 6 months.

2. Determination of dumping margin

42. Dumping margin shall be determined by the investigating body on the basis of comparison of:

1) the weighted average normal value of product with weighted average export price of product;

2) the normal value of product on individual transactions with export prices for product on individual transactions;

3) the weighted average normal value of product with export prices of product on individual transactions, subject to significant differences in price of product depending on buyers, regions or period of delivery of goods.

43. A comparison of export price of product with its normal value shall be made at the same level of trade and in cases of sales of product that took place as far as possible at the same time.

44. During the comparison of the export price of product with its normal value, the adjustment shall be made according to the differences affecting price comparability, including differences in conditions and characteristics of deliveries, taxation, stages of commercial operations, quantity terms, physical characteristics and any other differences, in regard to which evidence of their impact on price comparability is presented.

The investigating body ensures that adjustments due to these factors do not overlap, thus distorting the result of comparison of export price with normal value of product. The investigating body can request interested parties to provide the information necessary to ensure proper comparison of export price of the product with its normal value.

45. When there are no purchases or sales of the like product in the ordinary course of trade in the market of the exporting third country or due to the low volume of sale of the like product in the ordinary course of trade or because of the particular situation in the

market of exporting third country it is impossible to conduct a proper comparison of the product export price with the price of the like product on the market of exporting third country, export price of product is compared either with the comparable price of the like product, imported from exporting third country to other third country, provided that the price of the like product is representative, or the cost of production for product in the country of origin plus a reasonable amount for administrative, selling and general costs and profits typical for this industry.

46. If the product is imported to the customs territory of the EAEU from third country, which is not a country of its origin, the export price of such product shall be compared with comparable price of like product in the market of third country.

Comparison of the export price for product can be made with comparable price of like product in country of its origin if such product is only transshipped through third country, from which it is exported to the customs territory of the EAEU or this product is not manufactured in this third country or there is not comparable price of like product.

47. In the case when the comparison of export price of product with its normal value, requires conversion of their values from one currency to another, such conversion is made using the official exchange rate on the date of the sale of the product.

If the foreign currency trading was directly linked to the corresponding export supply of the product and was carried out for a certain period, it is necessary to use currency exchange rate used in the sale of currency for a period.

The investigating body does not take into account currency fluctuations and in course of investigation provides exporters with less than 60 calendar days for adjusting their export prices taking into account sustained changes in exchanged rates during investigation.

48. The investigating body, as a rule, determines individual dumping margin for each known exporter and (or) manufacturer of product that provided necessary information for determining individual dumping margin.

49. If the investigating body arrives to a conclusion about unacceptability of determination of individual dumping margin for each known exporter and (or) manufacturer of product on the reason of total number of exporters, manufacturers or

importers of goods, variety of goods or for any other reason, it can use restriction in determination of individual dumping margin, on the basis of appropriate number of interested persons, or determine dumping margin in respect of picking of goods from each exporting third country, that according to information of the investigating body, is statistically representative and can be examined without disturbing course of investigation.

Selection of interested persons for limiting determination of individual dumping margin, specified by the provisions of this paragraph, shall be performed by the investigating body, preferably on the basis of consultations with appropriate foreign exporters, manufacturers and importers of product which is an object of investigation and with their consent.

If the investigating body uses restriction in accordance with the provisions of this paragraph, it determines as well individual dumping margin in relation of each foreign exporter or foreign manufacturer that initially were not selected, but provided necessary information within the period prescribed for its consideration, except cases when number of foreign exporters and (or) foreign manufacturers is so large that individual consideration can lead to infringement of term of appropriate investigation conducting by the investigating body.

Voluntarily submitted responses of such foreign exporters and (or) foreign manufacturers shall not be rejected by the investigating body.

50. If the investigating body uses restriction of determination of individual dumping margin in accordance with the paragraph 48 of this Protocol, amount of dumping margin calculated in relation to foreign exporters and foreign manufactures of product, which is a subject of dumping import, shall not exceed amount of weighted average dumping margin, determined with regard to foreign exporters or foreign manufacturers of product which is a subject of dumped import, selected for determination of individual dumping margin.

51. If exporters or manufacturers of the product under investigation, do not provide information in required form and a timely manner to the investigating body or information that was provided by them cannot be verified or is not true, the investigating body can determine dumping margin on the basis of other available information.

52. In addition to determining individual dumping margin for each known exporter and (or) manufacturer of product, which presented necessary information allowing to determine individual dumping margin, the investigating body can determine a uniform dumping margin for all other exporters and (or) manufacturers of product under investigation, on the basis of the highest dumping margin, determined in course of investigation.

3. Determination of normal value

53. Normal value of product is determined by the investigating body based on the price of the like product when it is sold during the period of investigation in the domestic market of the exporting third country in the ordinary course of trade to consumers, who are not parties related to producers and exporters which are residents of such third country, for use in the customs territory of the exporting third country.

In order to determine normal value, the prices of the like product in the sale in the domestic market of the exporting third country to consumers who are parties related to producers and exporters which are residents of such third country can be taken into account if it is found that this relation does not affect the pricing of the foreign producer and (or) the exporter.

54. The volume of sales of the like product in the ordinary course of trade in the domestic market of the exporting third country is considered as sufficient to determine the normal value of the product if that amount is not less than 5 percent of total exports of the product to the customs territory of the EAEU from exporting third country.

The lower volume of sales of the like product in the ordinary course of trade is considered acceptable for determining the normal value of the product, if there is evidence that this amount is sufficient to ensure proper comparison of the export price of the product with the price of the like product in the ordinary course of trade.

55. During determination of the normal value of the product in accordance with paragraph 53 of this Protocol the price of the product in its sales to customers in domestic market of the exporting third country is a weighted average price at which the like product is sold to customers during the period of investigation, or the price of the product on each of its sales to customers within this period.

56. Sales of the like product in the domestic market of the exporting third country or third country exporting to any other third country at prices below cost of production units of the like product including administrative, selling and general costs may be disregarded in determining of the normal value of the product only if the investigating body determines that the sale of the like product in the period of investigation is carried out in large volume and at prices that do not provide reimbursement of all costs during this period.

57. If the price of the like product, which at the time of its sale below cost of production units of the like product including administrative, selling and general costs, exceeds the weighted average cost of production of the product unit including administrative, selling and general costs in the period of investigation, such a price is considered as providing reimbursement of all expenses during the period of investigation

58. Sale of the like product at prices below cost of production including administrative, selling and general costs is carried out in a significant amount, if the average weighed price of the like product on transactions, taken into account in determining the normal value of the product, is below the average unit cost of production taking into account the administrative, selling and general costs or volume of sales at prices below cost is at least 20 percent of the sales volume of transactions taken into account in determining the normal value of the product.

59. Production cost per unit of the like product, taking into account administrative, selling and general costs shall be calculated on the basis of data provided by the exporter or producer of product, provided that such data are consistent with generally accepted principles and accounting rules and reporting in the exporting third country and fully reflect the costs associated with the production and selling product.

60. The investigating body shall consider all available evidence at its disposal of the correct allocation of production costs, administrative, selling and general costs, including data submitted by the exporter or producer of the product under the investigation, provided that such allocation of costs is usually practiced by that exporter or producer of product, particularly with regard to establishing an appropriate period of amortization, deductions for investments and cover other costs of production development.

61. Costs of production, administrative, sales and general expenses are adjusted for one-time costs associated with the development of production, or the circumstances under which the costs in the period of investigation influence operations carried out during the organization of production. Such adjustments should reflect the costs at the end of the period of production organization, and if the period of production organization exceeds the period of investigation - for the most recent phase of production organization, which falls during the investigation.

62. The total quantitative indicators of administrative, selling and general costs and profits typical for this sector are defined based on actual data on the production and sale of like product in the ordinary course of trade, provided by the exporter or producer of the product which is subject to the dumped imports.

If it is impossible to determine such aggregated quantitative indicators in this way, they can be identified on the basis of:

1) The actual amounts received and expended by the manufacturer or exporter of the product under investigation in connection with the manufacture and sale of the same category of product in the domestic market of the exporting third country;

2) The weighted average of the actual amounts received and expended in connection with the production and sale of like products on the domestic market of the exporting third country by other exporters or producers of such products;

3) Any other method, provided that the amount of profit that is determined in this way does not exceed the amount of profit, typically obtained by other exporters or producers in the same category of product when sold on the domestic market of the exporting third country.

63. In the case of dumped imports from the exporting third country in which domestic market prices are regulated directly by the state or a state monopoly on foreign trade, normal value of product can be determined on the basis of price or calculated value of like product in an appropriate third country (comparable for purposes of investigation to the specified exporting third country) or the prices of like product when it is delivered from such third country for export.

If the determination of normal value of the product in accordance with this clause is not possible, the normal value of product can be determined on the basis of the price paid or payable for the same product on the customs territory of the EAEU and adjusted considering the profit.

4. Determination of export price

64. Export price is determined on the basis of data of its sales during the period of investigation.

65. In the absence of data on the export price of the product, which is the subject of the dumped imports, or if the investigating body has a reasonable doubt about the accuracy of information on export prices of such product due to the fact that the exporter and importer of the product are related parties (including the connection of each of them with a third party) or in the presence of restrictive business practices in the form of collusion in respect of the export price of such product, the export price may be calculated based on the price at which the imported product was first resold to an independent buyer, or another method, which can be determined by the investigating body, if the imported product is not resold to an independent buyer or not resold in the form in which it was imported into the customs territory of the EAEU. At the same time for the purpose of comparison of export price of product with its normal value the expenses (including custom duties and taxes), paid during the period between import and resale of product as well as profits are also taken into account.

5. Determination of injury to the industry of the member States as a result of dumped imports

66. For the purposes of this section injury to the industry of the member States is determined as material injury to the industry of the member States, the threat of its injury or a significant delay in creation of the sector of economy of the member States.

67. Injury to the industry of the member States as a result of dumped imports is determined based on the analysis of the volume of dumped imports, the effect of such imports on prices of the like product on the market of the member States and the producers of the like product in the member States.

68. Period of investigation, during which the information for the purpose of determination of the existence of injury to the sector of economy of the member States as a result of dumped imports is analyzed, is determined by the investigating body.

69. Analyzing the volume of dumped imports the investigating body shall determine whether there was a significant increase in dumped imports of the product under investigation (in absolute terms or relative to production or consumption of the like product in the member States).

70. Analyzing the impact of dumped imports on prices of the like product on the market of the member States the investigating body shall determine:

1) whether the prices of the product which is the subject of the dumped imports are significantly lower than prices of the like product on the market of the member States;

2) whether the dumped imports has resulted in a significant reduction of prices of the like product on the market of the member States;

3) whether a significant increase in prices of dumped imports prevented the increase of prices of the like product in the market of the member States, which would have occurred in the absence of such imports.

71. If the subject of investigations conducted at the same time is the import of the product into the customs territory of the EAEU from more than one exporting third country, the investigating body may assess the cumulative effect of such imports only if it determines the following:

1) the dumping margin determined for the import of the product under investigation, from each exporting third country is greater than the minimally acceptable margin of dumping, and the volume of these imports from each exporting third country is not negligible with regard to the provisions of paragraph 223 of this Protocol;

2) estimation of the overall impact of imports of product is possible according to the conditions of competition between imported products and the conditions of competition between imported product and the like product produced in the member States.

72. Analysis of the impact of dumped imports on the industry of the member States includes the estimation of all the economic factors relevant to the industries of the member States, including:

the degree of the sector of economy recovery of the member States after the impact of the dumped or subsidized imports;

actual or possible future decline in production, sales of product, its market share in the member States, profits, productivity, income from investments or raised capacity utilization;

factors affecting the prices of product on the market of the member States;

the size of the margin of dumping;

actual or possible future negative impact on growth rates of production, stocks of product, employment, wages, the ability to attract investment and financial condition.

At the same time no one or several factors can have decisive role for the purpose of establishing injury of the industry of the member States as a result of dumped imports.

73. The conclusion about the presence of a causal link between dumped imports and injury to the industry of member States should be based on the analysis of all relevant evidence and information related to the matter and available to the investigating body.

74. The investigating body other than the dumped imports also examines any other known factors, that may have caused injury to the sector of economy of the member States in the same period.

Factors to be considered as relevant include, inter alia, the volume and prices of imported product that were not sold at dumping prices, contraction in demand or changes in the structure of consumption, restrictive trade practices, technological advances, as well as export performance and productivity of industry of the member States.

Injury caused by these factors shall not be referred to the injury to the industry of the member States due to the dumped imports in the customs territory of the EAEU.

75. The impact of dumped imports on the industry of the member States shall be evaluated regarding the production of the like product in the member States, if the available data permit to distinguish the production of the like product on the basis of such criteria as the production process, the sales of the like product, and profit.

If the available data do not allow allocating the production of the like product, the impact of dumped imports on the industry of the member States shall be determined with

respect to estimated production of the narrowest group or range of products, which include the like product, and for which data are available.

76. Determining the threat of material injury to the sector of economy of the state-members due to the dumped imports the investigating body shall take into account all available factors, including the following:

1) The growth of dumped imports, indicating the real possibility of further increase in such imports;

2) The availability for exporter of the product, that is the subject of the dumped imports, of sufficient export capacity, or the apparent inevitability of its increase, which indicates the real possibility of the increase in the dumped imports of the product, taking into account the ability of other export markets to take any additional exports;

3) The level of prices of the product under investigation, if such prices could reduce or contain the price of the like product on the market of the member States, and further growth in demand for the product under investigation;

4) The availability of stocks of the product under investigation.

77. The decision on the threat of material injury to the industry of the member States shall be made if in the course of the investigation based on the analysis of the factors referred to in paragraph 76 of this Protocol the investigating body came to a conclusion about the inevitability of the continuation of the dumped imports and injurious effect of such import on the industry of member-industry if the antidumping measure are not imposed.

6. The imposition of provisional antidumping duty

78. If the information obtained prior to completion of investigation indicates the presence of dumped imports and the resulting injury to the industry of the member States, the Commission on the basis of a report of the investigating body, specified in the paragraph 7 of this Protocol, takes a decision on the application of antidumping measure by imposing provisional antidumping duty to prevent injury to the industry of member States caused by the dumped imports during the period of investigation.

79. Provisional antidumping duty cannot be imposed earlier than 60 calendar days from the date of initiation of the investigation.

80. The rate of the provisional antidumping duty shall be sufficient to eliminate the injury to the industry of the member States, but shall not exceed the level of pre-calculated margin of dumping.

81. If the rate of the provisional antidumping duty is equal to the level of the previously calculated margin of dumping, the period of application of the provisional antidumping duty shall not exceed four months, except if that period is extended to 6 months based on the request of exporters, whose share in the volume of dumped imports of the product under investigation constitutes a major part..

82. If the rate of the provisional antidumping duty is less than previously calculated dumping margin, the period of application of the provisional antidumping duty shall not exceed 6 months, except if that period is extended to 9 months upon request of exporters, whose share in the volume of dumped imports of the product under investigation constitutes a major part. .

83. If as the result of the investigation the investigating body determines that there are no grounds for the imposition of antidumping measure or taken a decision on non-use of antidumping measure in accordance with the paragraph 272 of this Protocol, the amount of the provisional antidumping duty shall be refunded to the payer in the manner provided in the appendix to this Protocol.

The investigating body shall in due time inform customs authorities of member States there are no grounds for the introduction of anti-dumping measures or the adoption of the Commission decision on the non-use of anti-dumping measures.

84. If upon results of investigation, taken a decision on application of antidumping measure on the basis of existence of threat of injury or significant slowdown in creation of sector of economy of member States, amounts of provisional antidumping duty shall be refunded to payer in the manner specified in the appendix to this Protocol.

85. If upon results of investigation, taken a decision on application of antidumping measure on the basis of existence of injury to sector of economy of member States on the condition that failure to introduce provisional antidumping duty would lead to determination of existence of injury to sector of economy of member States, amounts of provisional antidumping duty as of the moment of entry into force of decision on

application of antidumping measure shall be entered and distributed in the manner specified in the appendix to this Protocol, taking into account provisions of paragraphs 86 and 87 of this Protocol.

86. If upon the results of investigation introduction of lower rate of antidumping duty than provisional antidumping duty rate, is deemed as expedient, amounts of provisional antidumping duty corresponding to amount of antidumping duty calculated at established rate of antidumping duty, shall be entered and distributed in the manner specified in the appendix to this Protocol.

Amounts of provisional antidumping duty that exceed amount of antidumping duty calculated at established rate of antidumping duty shall be refunded to payer in the order prescribed in the appendix to this Protocol.

87. If upon results of investigation introduction of a higher antidumping duty rate than provisional antidumping duty rate is considered as expedient, difference between amounts of antidumping duty and provisional antidumping duty shall not be charged.

88. Provisional antidumping duty shall be applied on the condition of simultaneous continuation of investigation.

89. Decision to introduce provisional antidumping duty shall be taken, as a rule, not later than 7 months as of the date of investigation start.

7. Adoption of price undertakings by exporter of the product under investigation

90. Investigation may be suspended or terminated by the investigating body without the introduction of provisional antidumping duty or antidumping duty upon receiving from the exporter of the product under investigation, price undertakings in written form about the revise of prices for the product or cessation of exports of the product to the customs territory of the EAEU at prices below its normal value (if there are any related to the exporter parties in the member States, the statements of these persons on support of these undertakings are required as well), if the investigating body comes to the conclusion that acceptance of such undertakings will remove injury caused by dumped import, and the Commission take a decision on their approval.

Level of prices for the product according to these undertakings shall be not higher that it is necessary for eliminating dumping margin.

Increase of the product price can be less than dumping margin if such increasing is sufficient for the elimination of the injury to the sector of economy of member States.

91. Decision to approve price undertakings shall not be taken by the Commission until the investigating body comes to the preliminary conclusion about the existence of dumping and injury to the sector of economy of member States caused by it.

92. Decision to approve price undertakings shall not be taken by the Commission, if the investigating body comes to the conclusion about unacceptability of their approval due to a large number of actual and potential exporters of the product or on any other reasons.

The investigating body informs as possible exporters about the reasons why approval of their price undertakings was considered unacceptable and gives exporters possibility to make their comments in this connection.

93. The investigating body sends to each exporter that accepted price undertakings requests for the non-confidential version in order to be able to present it to the interested parties upon receiving a corresponding request.

94. The investigating body can offer exporters to accept price undertakings, but cannot require their acceptance.

95. If price undertakings are approved by the Commission, antidumping investigation may be continued at the request of exporter of product or upon decision of the investigating body.

If according to the results of investigation the investigating body comes to the conclusion about absence of dumping or injury to the sector of economy of member States caused by it, exporter that took price undertakings, is automatically released from such undertakings, except case when this conclusion to a large degree is a result of existence of such undertakings. If made conclusion is largely a result of existence of price undertakings, the Commission may take decision that such undertakings shall remain in force during required period of time.

96. If according to the results of investigation the investigating body comes to the conclusion about existence of dumping and injury to sector of economy of member States caused by it, price undertakings taken by exporter continue to act in accordance with their terms and provisions of this Protocol.

97. The investigating body is entitled to request from the exporter information concerning performance of price undertakings by exporter, and also permit for verification of such information.

Failure to provide requested information within the period prescribed by the investigating body as well as disagreement for verification of such information shall be considered as exporter's violation of price undertakings accepted by him.

98. In case of exporter's violation or withdrawal of price undertakings, the Commission can take a decision on application of antidumping measure by the introduction of provisional antidumping duty if the investigation is not yet completed, or antidumping duty if final results of investigation show that there are grounds for its introduction.

Exporter, in case of violation by him of accepted price undertakings, shall be provided with ability to make comments in respect of such violation.

99. Rate of provisional antidumping duty or antidumping duty that can be introduced in accordance with the paragraph 98 of this Protocol, shall be determined in the act of the Commission on approval of price undertakings.

8. Introduction and application of antidumping duty

100. Antidumping duty is applicable to product, supplied by all exporters and being a subject of dumped import, causing injury to sector of economy of member States, except product supplied by those exporters, price undertakings of which were approved by the Commission in accordance with provisions of the paragraphs 90-99 of this Protocol.

101. Amount of antidumping duty shall be sufficient for eliminating injury to sector of economy of member States but not higher than amount of calculated dumping margin.

The Commission can take a decision on introduction of antidumping duty at the rate less than rate of calculated dumping margin, if such rate is sufficient for eliminating injury to sector of economy of member States.

102. The Commission shall determine individual amount of antidumping duty rate with regard of product supplied by each exporter or manufacturer of product which is a subject of dumped import, for which individual dumping margin was calculated.

103. In addition to determining of individual amount of antidumping duty rate, specified in the paragraph 102 of this Protocol, the Commission determines a uniform antidumping duty rate for product supplied by all other exporters or manufacturers of product from exporting third country, for whom individual dumping margin was not calculated, on the basis of the highest dumping margin, calculated in course of investigation.

104. Antidumping duty may be levied on products placed under customs procedures providing application of antidumping measure, prior to the date of introduction of provisional antidumping duties, but not earlier than 90 calendar days, if upon results of investigation in respect of the product it was found that:

1) there is a history of dumped imports which caused injury or that the importer was, or should have been, aware that the exporter delivers the product at a price below its normal value, and that such import would cause injury, and

2) the injury is caused by substantially increased dumped imports in a relatively short period of time which in light of the duration and the volume as well as other circumstances (including rapid growth of inventories of the imported products) can significantly undermine the remedial effect of the anti-dumping duty to be applied, under the condition that the importers of the product concerned shall be given an opportunity to comment.

105. The investigating body after the date of initiation of the investigation shall publish notification in official sources provided by the Treaty containing a warning about possible application of an antidumping duty on imports of the product under investigation in accordance with paragraph 104 of this Protocol.

Decision on publication of such notification is taken by the investigating body upon the request of the sector of economy of the member States, which contains sufficient evidences of fulfillment of the conditions, specified in paragraph 104 of this Protocol, or by the investigating body's own initiative provided there are such evidences in its disposal.

Anti-dumping duty shall not be applied to the products placed under the customs procedures providing application of antidumping duties before the date of the official publication of notification provided by this paragraph.

106. The legislation of the member States may establish additional means of notification of interested parties concerning possible application of antidumping duty in accordance with paragraph 104 of this Protocol.

9. Duration and review of antidumping measure

107. Antidumping measure shall be applied upon decision of the Commission in the amount and within the time necessary for elimination of injury to sector of economy of member States arising out of dumped imports.

108. Duration of antidumping measure shall not exceed 5 years from the moment of start of application of such measure or from the date of completion of review, which was conducted in connection with changed circumstances and at the same time was concerned analysis of dumped import and associated with it injury to sector of economy of member States or due to expiration of antidumping measure's duration.

109. Due to expiration of duration of antidumping measure, review shall be conducted on the basis of written application, submitted in accordance with the provisions of paragraphs 186-198 of this Protocol, or upon the initiative of the investigating body.

Due to expiration of term of validity of antidumping measure review shall be conducted if application contains information on possibility to renew or continue dumped import and infliction of injury to sector of economy of member States upon termination of antidumping measure.

Application for conducting review in connection with expiration of antidumping measure shall be submitted no later than six months before expiry of antidumping measure.

Review shall be initiated prior to expiration of antidumping measure and terminated within 12 months as of the date of its commencement.

Prior to completion of review conducted in accordance with the provisions of this paragraph, application of antidumping measure shall be prolonged upon decision of the Commission. Within the period for which application of corresponding antidumping measure is prolonged, in the manner, specified for charging of provisional antidumping duties, it is necessary to pay antidumping duties at the rates of antidumping duties, which

were determined due to application of antidumping measure, duration of which shall be prolonged due to conducting of review.

If upon the results of review due to expiration of antidumping measure, the investigating body determine that there are no grounds for application of antidumping measure, or was taken decision on non-use of antidumping measure in accordance with the paragraph 272 of this Protocol, amounts of antidumping duty, charged in the manner prescribed for charging of provisional antidumping duties within the period for which application of antidumping measure was prolonged, shall be refunded to payer in the manner specified in the appendix to this Protocol.

The investigating body, shall in due time inform customs authorities of member States about taking decisions, which are specified in subparagraph 6 of this paragraph.

Effect of antidumping measure shall be extended by the Commission in the event that upon the results of review due to expiration of antidumping measure, the investigating body determines ability to renew or continue dumping import and inflict injury to sector of economy of member States. From the date of entry into force of act of the Commission on prolongation of antidumping measure, amounts of antidumping duties, charged in the manner specified for charging of provisional antidumping duties within the period for which application of antidumping measure was prolonged, shall be entered and distributed in the manner specified in the appendix to this Protocol.

110. At the request of interested person in case if after introduction of antidumping measure no less than one year passed, or by the initiative of the investigating body, review can be conducted in order to determine expediency of continuing to apply antidumping measure and (or) reconsider it, including review of individual amount of antidumping duty rate, due to changed circumstances.

Depending on the purposes of filing application on conducting the stated review, such application shall include evidence that due to changed circumstances:

continued use of antidumping measure is not required for counteract to dumped import and elimination of injury to sector of economy of member States due to dumped import; or

existing amount of antidumping measure exceeds amount sufficient for counteract to dumping import and elimination of injury to sector of economy of member States due to dumping import; or

existing antidumping measure is not sufficient for counteract to dumping import and elimination of injury to sector of economy of member States due to dumped import.

Review conducted in accordance with this paragraph, shall be terminated within 12 months as of the date of its commencement.

111. Review may also be conducted in order to determine individual dumping margin for exporter or manufacturer, which did not carry out delivery of product that is a subject of dumped import, within the period of investigation.

Such review can be initiated by the investigating body, in case if the exporter or manufacturer submit application for conducting of it, containing evidence that exporter or manufacturer of product is not related with exporters and manufacturers for which antidumping measure is applied, and that this exporter or manufacturer delivers product under investigation, to the customs territory of the EAEU or associated by contractual obligations on delivery of significant amounts of such product to the customs territory of the EAEU, termination or withdrawal of which will cause to significant losses or significant penalties for this exporter or manufacturer of product.

During review in order to determine individual dumping margin for exporter or manufacturer in relation to deliveries to the customs territory of the EAEU of product under investigation, this exporter or manufacturer do not pay antidumping duty until taking decision on results of such review. At the same time in respect of such product, being imported (imported) to the customs territory of the EAEU within the period of conducting of review, payment of antidumping duty shall be made in the manner prescribed by the legal acts of the EAEU, which regulate customs relations, to secure payment of import customs duties taking into account peculiarities determined in this paragraph.

The investigating body shall in due time inform customs authorities of member States about date of review commencement.

Payment of antidumping duty shall be provided in monetary assets (money) in the amount of antidumping duty calculated at uniform rate of antidumping duty determined in accordance with the paragraph 103 of this Protocol.

If upon results of review, has been taken a decision on application of antidumping measure, for the period of conducting of such review, antidumping duty shall be paid. From the date of entry into force of decision on application of antidumping measure, taken upon the results of review, amount of collateral shall be offset on account of payment of antidumping duty, in the amount, determined on the basis of established rate of antidumping duty, and entered and distributed in the manner, determined in the appendix to this Protocol, taking into account provisions of this paragraph.

If upon results of review introduction of a higher rate of antidumping duty than the rate on the basis of which security amount for payment of antidumping duty is determined, is considered expedient, difference between amounts of antidumping duty calculated at the rate determined upon results of review, and uniform antidumping duty rate shall not be charged.

Amount of collateral exceeding amount of antidumping duty, calculated at established rate of antidumping duty, shall be refunded to payer in the manner determined by the customs legislation of the EAEU.

Review provided by this paragraph shall be conducted in the shortest possible period of time, and in any case this period cannot exceed 12 months.

112. Provisions of the Section VI of this Protocol relating to submission of evidence and conducting of antidumping investigation, shall be applied for reviews, provided by the paragraphs 107-113 of this Protocol, taking into account corresponding differences

113. Provisions of the paragraphs 107-112 of this Protocol shall be applied to undertakings taken by exporter in accordance with the paragraphs 90-99 of this Protocol, taking into account corresponding differences.

10. Determining of circumvention of antidumping measure

114. For the purposes of this Protocol circumvention of antidumping measure is considered as change in the way of delivery of goods for avoiding payment of antidumping duty or performance of price undertakings taken by exporter.

115. Review for the purpose of determination of circumvention of antidumping measure shall be conducted on the basis of application of interested person or upon the initiative of the investigating body.

116. Application specified in the paragraph 115 of this Protocol shall contain evidence of:

- 1) circumvention of antidumping measure;
- 2) neutralization of antidumping measure due to circumvention of it and impact of this factor on amount of production and (or) sale and (or) price of like product;
- 3) availability, as a result of circumvention of antidumping measure, of dumped import of product (integrated parts and (or) derivatives of such product). At the same time for normal value of product, its integrated parts or derivatives, taken their normal value, determined in the course of investigation, upon results of which the Commission introduced antidumping measure, taking into account corresponding adjustments for the purpose of comparison.

117. Review in order to determine circumvention of antidumping measure shall be completed within 9 months as of its commencement date.

118. For the period of review conducted in accordance with the paragraphs 115-120 of this Protocol, the Commission can in the manner determined for collection of provisional antidumping duties, introduce antidumping duty for integrated parts and (or) derivatives of product, which is a subject of dumped import, imported to the customs territory of the EAEU from exporting third country, as well as for product which is a subject of dumped import, and (or) its integrated parts and (or) derivatives, imported to the customs territory of the EAEU from any other exporting third country.

119. If upon the results of review conducted in accordance with the paragraphs 115-120 of this Protocol, the investigating body do not determine circumvention of antidumping measure, amounts of antidumping duty, paid in accordance with the paragraphs 118 of this Protocol and in the manner specified for collection of provisional antidumping duties, shall be refunded to payer in the manner determined in the appendix to this Protocol.

The investigating body shall in due time inform the customs authorities of member States on taking decisions, specified in the subparagraph 1 of this paragraph.

120. If upon the results of review conducted in accordance with paragraphs 115-120 of this Protocol circumvention of antidumping measure applied in accordance with this Protocol is determined, the Commission can apply antidumping measure to integrated parts and (or) derivatives of product, which is a subject of dumped import, imported to customs territory of the EAEU from exporting third country, as well as to product, which is a subject of dumped import, and (or) integrated parts and (or) derivatives, imported to the customs territory of the EAEU from other exporting third country. From the date of entry into force of the act of Commission on introduction of indicated in this paragraph antidumping measure, amounts paid in the manner determined for collection of provisional antidumping duties, antidumping duties, shall be entered and distributed in the manner, determined in the appendix to this Protocol.

V. Countervailing Measures

121. Subsidy means:

1) financial support by the subsidizing authority that provides the recipient of subsidy with additional benefits, rendered within the territory of exporting third country in form of:

direct transfer of monetary funds (including in form of grants, loans and share purchase) or undertakings on transfer of such funds (including in form of loan guarantees);

withdrawal of funds or total or partial waiver of collection of funds, which had to be enrolled into income of exporting third country, including through provision of tax credits, excluding cases of exemption of exported product from taxes and duties that are being collected from like product, intended for domestic consumption, or reduction or refund of such taxes or duties in the amounts, not exceeding actually paid amounts;

preferential or free provision of goods or services, except goods or services intended for support and development of common infrastructure, i.e. infrastructure, not related to specific manufacturer and (or) exporter;

preferential purchase of goods.

2) any form of income or prices support, which provides the recipient of subsidy with additional preferences, direct or indirect result of which is the increase in exports of products from exporting third country or reduction of import of like product to this third country;

1. Principles of classification of exporting third country subsidy to specific subsidies

122. Exporting third country subsidy is classified as specific if the use of subsidy is allowed to certain companies by the subsidizing body or legislation of exporting third country.

123. In this Protocol individual organizations are considered as specific manufacturer and (or) exporter, or specific sector of economy of exporting third country or group (union, association) of manufacturers and (or) exporters or sectors of economy of exporting third country.

124. Subsidy is specific if number of individual organizations permitted for use of this subsidy, is restricted by organizations located in a particular geographic region, which is under the jurisdiction of subsidizing body.

125. Subsidy is not specific if legislation of exporting third country or subsidizing body establishes general objective criteria, which determine unconditional right to receive subsidy and its amount (including, depending on number of workers, engaged in production of products or volume of output) and strictly enforced.

126. Anyway, subsidy of exporting third country is a specific subsidy, if provision of such subsidy is accompanied by:

- 1) restriction in number of individual organizations that are allowed to use subsidy;
- 2) privileged use of subsidy by individual organizations;
- 3) providing of disproportionately large amounts of subsidy to individual organizations;

4) subsidizing body's choice of preferential method of providing subsidy to individual organizations. .

127. Any subsidy of exporting third country is a specific subsidy, if:

1) in accordance with the laws of exporting third country or in fact as the only condition or one of several conditions, subsidy is associated with exports of product. The subsidy is in fact related to exports of product if the provision according to legislation of exporting third country is not associated with export of product, in practice associated with occurred or possible in the future export of product or with export revenues. The mere fact of provision of subsidies to exporting enterprises does not mean provision of subsidy, related with export of goods within the meaning of this paragraph;

2) a subsidy is related to the use of products produced in exporting third country rather than imported product, in accordance with legislation of exporting third country or actually as an only condition or one of several conditions.

128. The decision of the investigating body on classifying subsidy of the exporting third country as specific shall be based on evidence.

2. Principles of defining amount of specific subsidy

129. The size of specific subsidy is based on the size of benefit gained by recipient of such subsidy.

130. The size of the benefits gained by the recipient of the specific subsidy is determined based on the following principles:

1) participation of a subsidizing body in company capital is not considered as providing benefit, if such participation cannot be considered as inconsistent with the usual investment practice (including the provision of risk capital) in the territory of exporting third country;

2) the credit provided by the subsidizing body is not considered as provision of benefit, if there is no difference between the amount the company pays the borrower for government loan and the amount that it would have paid for a comparable commercial loan which the company can receive on the credit market of the exporting third country. Otherwise, the benefit is the difference between these amounts;

3) the loan guarantee by subsidizing body is not considered as provision of benefit, if there is no difference between the amount that the recipient company pays for the guarantee on a loan guaranteed by subsidizing body and the amount it would pay for comparable commercial loan without government guarantee. Otherwise the benefit is the difference between these amounts, adjusted for difference in fees;

4) delivery of goods or services or purchase of goods by subsidizing body is not considered as provision of benefit, if such goods and services are delivered for less than adequate payment or purchases are not made for more than adequate payment. The adequacy of payment is determined based on prevailing market conditions of purchases and sales of such goods and services on the market of exporting third country, including price, quality, availability, liquidity, transportation and other conditions of purchase and sale of goods.

3. Determination of injury to sector of economy of member States caused by subsidized imports

131. For the purposes of this section, the injury to the sector of economy of member States is considered as a material injury, threat of such injury or significant retardation in the establishment of sector of economy of member States.

132. Injury to the sector of economy of member States caused by the subsidized imports is determined based on the analysis of the subsidized imports and the impact of subsidized import on prices of the like product on the market of member States and the producers of the like products in member States.

133. Period of investigation for which information for determination of injury to sector of economy of member States caused by subsidized import is analyzed, shall be determined by the investigating body.

134. While analyzing volume of the subsidized import, the investigating body determines whether there has been a significant increase in subsidized imports (in absolute terms or relative to production or consumption of the like product in member States).

135. If the subject of investigations conducted simultaneously is subsidized imports of any product to the customs territory of the EAEU from more than one exporting third

country, the investigating body may assess the cumulative effect of such import only if it determines that:

- 1) the amount of subsidy in each exporting third country for certain product is more than 1 percent of its value, and amount of subsidized import from each exporting third country is not negligible in accordance with paragraph 213 of this Protocol;

- 2) assessment of the overall impact of imports of product which is the subject of subsidized imports, is a possible taking into account the conditions of competition between imported product and the conditions of competition between imported product and the like product produced in the member States.

136. When analyzing impact of the subsidized import on prices of like product on the market of member States the investigating body determines:

- 1) whether the prices of product that is the subject of the subsidized imports are significantly lower compared to the prices of the like product on the market of member States;

- 2) whether the subsidized imports led to a significant reduction in prices of the like product on the market of the member States;

- 3) whether subsidized import significantly prevents increase in prices of the like product in the market of member States, which would have occurred in the absence of such imports.

137. Analysis of impact of subsidized import on the sector of economy of member States consists of evaluation of the economic factors relevant to the sector of economy of member States, including:

- 1) the actual or possible in the near future reduction in production, sales of a product, share in the market of the member States, profits, productivity, income from investments or utilization of production capacities;

- 2) factors affecting the prices of product in the market of member States;

- 3) the actual or possible future negative impact on cash flows, stocks of product, level of employment, wages, rates of growth in production and the ability to attract investments.

138. The impact of subsidized import on the sector of economy of member States is evaluated with respect to estimated production of the like product in the member States, if the available data allow distinguishing the production of the like product on the basis of such criteria as the production process, the sales of product by its producers and profit.

If the available data do not allow allocating the production of the like product, the impact of subsidized import on sector of economy of member States shall be assessed with respect to estimated production of the narrowest group or range of goods, which include the like product and for which the data are available.

139. In determining threat of material injury to the sector of economy of member States caused by the subsidized import, the investigating body considers all available factors, including:

- 1) the nature, amount of subsidy or subsidies and their possible impact on trade;
- 2) the growth rate of subsidized imports, indicating the real possibility for further increase in such import;
- 3) availability for the exporter of the product subject to subsidized imports of sufficient export capacity or the apparent inevitability of their increase which indicate the real possibility of increase in the subsidized import of the product, taking into account the ability of other export markets to take any additional exports of given product;
- 4) the price level for product subject to subsidized imports, if such prices could reduce or contain the growth of prices for the like product on the market of member States and further growth in demand for the product subject to the subsidized imports;
- 5) exporter's stocks of the product subject to the subsidized imports.

140. The decision on the existence of the threat of material injury to the sector of economy of member States shall be taken if in course of investigation upon results of analysis of factors referred to in paragraph 139 of this Protocol, the investigating body came to the conclusion of the inevitability to continue subsidized imports and causation of material injury to such import to the sector of economy of member States in case of non-introduction of countervailing measures.

141. Determination of existence of casual link between subsidized import and injury to the sector of economy of member States as a result of such import shall be based on the analysis of all relevant and available to the investigating body evidence and information.

142. The investigating body, in addition to the subsidized import, analyses other known factors, which at the same time have resulted in injury to the sector of economy of member States.

This injury to the sector of economy of member States shall not be attributed by the investigating body to the injury to the sector of economy resulting from the subsidized imports.

4. Introduction of provisional countervailing duty

143. If the information received by the investigating body prior to the termination of the investigation, indicates the existence of subsidized imports and injury to the sector of economy of member States caused by such imports, the Commission on the basis of the investigating body's report, specified in paragraph 7 of this Protocol, takes a decision on the application of countervailing measure by means of imposition of a provisional countervailing duty for up to 4 months in order to prevent injury to the sector of economy of member States caused by subsidized import in the period of investigation.

144. The provisional countervailing duty cannot be imposed earlier than 60 calendar days from the date of initiation of the investigation.

145. The provisional countervailing duty is imposed at the rate equal to the previously calculated value of a subsidy of a particular exporting third country per unit of the subsidized and exported product.

146. If upon the results of the investigation it is determined that there are no grounds for the imposition of countervailing measure, or the decision on non-use of countervailing measure in accordance with the paragraph 246 of this Protocol was taken, the amount of the provisional countervailing duty shall be refunded to the payer in the manner defined in the appendix to this Protocol.

The investigating body shall promptly inform customs authorities of the member States on taking decisions stated in subparagraph 1 of this paragraph.

147. If as the results of investigation the decision on the application of countervailing measure is made on the basis of the existence of threat of injury or significant retardation in the establishment of the sector of economy of member States, the amounts of provisional antidumping duty shall be refunded to payer in the manner, specified in the appendix to this Protocol.

148. If as the results of investigation, the decision on application of countervailing measure on the basis of the existence of injury to the sector of economy of member States or threat of such injury to the sector of economy of member States (provided that non-introduction of provisional antidumping duty would result in the existence of injury to the sector of economy of member States) amounts of provisional countervailing duty from the date of entry into force of the decision on application of countervailing measure shall be entered and allocated in the manner, specified in the appendix to this Protocol, subject to the provisions of paragraphs 149 and 150 of this Protocol.

149. If as the results of the investigation introduction of lower rate of countervailing duty than rate of provisional countervailing duty is considered appropriate, amounts of provisional countervailing duty, corresponding to the amount of countervailing duty, calculated at the determined rate of countervailing duty shall be credited and allocated in the manner, specified in the appendix to this Protocol.

The amounts of provisional countervailing duty exceeding the amount of countervailing duty, calculated at the established rate of countervailing duty shall be refunded to the payer in the manner, specified in the appendix to this Protocol.

150. If as the results of the investigation it is considered appropriate to impose a higher rate of countervailing duty than rate of provisional countervailing duty, the difference between the amounts of countervailing duty and provisional countervailing duty shall not be charged.

151. The provisional countervailing duty shall be applied provided the simultaneous continuation of the investigation.

152. Provisional countervailing duty is applied in accordance with the paragraphs 164-168 of this Protocol.

153. Decisions on the imposition of the provisional countervailing duty are taken, as a rule, not later than 7 months from the date of the initiation of the investigation.

5. The adoption of voluntary undertakings by subsidizing third country or exporter of the product under investigation

154. The investigation may be suspended or terminated without the imposition of countervailing duty when the Commission takes a decision to approve one of the following voluntary undertakings received by the investigating body (in the written form):

exporting third country agrees to eliminate or reduce subsidies or to take appropriate measures to eliminate the consequences of subsidies or

exporter of the product under investigation, agrees to revise prices for such product that was established by that exporter (if there are any related parties with the exporter in member States these parties shall provide support of the exporter's undertakings to revise prices) so that as a result of analysis of undertakings adopted by the exporter the investigating body finds that acceptance of such voluntary undertakings will eliminate injury to the sector of economy of member States.

According to these undertakings the increase in price of the product under investigation shall not exceed the size of specific subsidy of exporting third country, calculated per unit for the subsidized and exported product.

The increase in price of the product under investigation may be smaller than the size of specific subsidy of exporting third country, calculated per unit for the subsidized and exported product, if such an increase is sufficient to remove the injury to the sector of economy of member States.

155. The decision to approve voluntary undertakings is not accepted by the Commission until the investigating body comes to a preliminary conclusion about the existence of subsidized import and the resulting injury to the sector of economy of member States.

The Commission does not take decisions on the approval of voluntary undertakings of the exporter of product under investigation until it obtains the consent of the authorized body of exporting third country for the acceptance by exporters of undertakings, specified in the third subparagraph of the paragraph 154 of this Protocol.

156. The decision to approve voluntary undertakings is not accepted by the Commission, when the investigating body comes to a conclusion about the unacceptability of their approval due to the large number of actual or potential exporters of the product under investigation or for other reason.

If it is possible the investigating body notifies exporters the reasons why their voluntary undertakings have not been accepted, and provides exporters with opportunity to comment.

157. The investigating body shall send to each exporter and the authorized body of exporting third country that took voluntary undertakings a request for non-confidential version of such undertakings in order to be able to provide it to interested persons.

158. The investigating body proposes to the exporting third country or the exporter of the product under investigation to accept voluntary undertakings, but cannot require their acceptance.

159. If the Commission takes a decision on approval of voluntary undertakings the investigation in respect of existence of the subsidized imports and resulting injury to the sector of economy of member States can be continued upon request of the exporting third country or on the basis of decision of the Commission.

If upon the results of investigation the investigating body come to conclusion about the absence of subsidized import or the injury to the sector of economy of member States, exporting third country or exporters who took the voluntary undertakings are automatically exempt from such undertakings, except for the case where the above conclusion to a great extent is a result of existence of such undertakings. If the conclusion that was made to a great extent as a result of existence of voluntary undertakings, the Commission may take a decision that such undertakings shall remain in force for the required period of time.

160. If upon the results of investigation the investigating body determines the existence of subsidized import and the resulting injury to the sector of economy of member States, voluntary undertakings that was adopted remain in force in accordance with their conditions and provisions of this Protocol.

161. The investigating body may request from exporting third country or the exporter if their voluntary undertakings were approved by the Commission, information concerning as well as their performance and consent for verification of this information.

Failure to submit requested information within the period specified by the investigating body and opposition for verification of this information is considered as violation of voluntary undertakings by the exporting third country or exporter.

162. In case if voluntary undertakings by exporting third country or exporter are violated, or in case of withdrawal of such undertakings, the Commission can take a decision on the application of countervailing measure through introduction of provisional countervailing duty, if the investigation is not yet completed, or countervailing duty, if the final results of the investigation indicate the existence of grounds for its introduction.

Exporting third country or exporter in case if they violate assumed voluntary undertakings shall be provided with possibility to make their comments in connection with this violation.

163. The decision of the Commission on acceptance of voluntary undertakings shall determine the rate of the provisional countervailing duty or countervailing duty, which can be implemented in accordance with paragraph 162 of this Protocol.

6. The imposition and application of countervailing duty

164. The decision to impose countervailing duty shall not be taken by the Commission if the specific subsidy of the exporting third country was withdrawn.

165. The decision on the imposition of countervailing duty shall be taken after the exporting third country, which provides a specific subsidy, was proposed to hold consultations, but this country refused the proposed consultations or in the course of such consultations a mutually acceptable decision has not been reached.

166. Countervailing duty is applied to products of all the exporters that are subject of the subsidized imports that cause injury to sector of economy of member States (except the product, supplied by those exporters, whose voluntary undertakings were approved by the Commission).

For products supplied by individual exporters, the Commission may establish individual rate of countervailing duty.

167. Countervailing duty rate shall not exceed the size of specific subsidy of export subsidies calculated per unit of the subsidized and exported product.

If subsidies are granted in accordance with various subsidy programs, their cumulative size shall be taken into account.

Countervailing duty rate can be less than the size of specific subsidy of exporting third country, if such rate is sufficient for elimination of the injury to sector of economy of member States.

168. When determining the rate of countervailing duty the investigating body takes into account the views of the consumers of member State received in the written form, whose economic interests may be affected by the introduction of countervailing duty.

169. Countervailing duty may be levied on products placed under customs procedures, which provide the application of countervailing measure, prior to the date of introduction of provisional countervailing duties, but not later than 90 calendar days, if according to the results of the investigation in respect of that product it was found:

1) injury which is difficult to repair is caused by massive imports in a relatively short period of a product benefiting from specific subsidies paid or bestowed;

2) it is deemed necessary, in order to preclude the recurrence of such injury, to impose countervailing duty to the imported products specified in subparagraph 1 of this paragraph.

170. The investigating body after initiation of investigation shall publish a notification in the official sources, specified by the Treaty, containing warning about possibility of application of countervailing duty to the imports of product under investigation in accordance with paragraph 169 of this Protocol.

The decision on publication of such notification shall be taken by the investigating body upon request of sector of economy of member States containing sufficient evidence of fulfillment of the conditions specified in paragraph 169, or upon the investigating body's own initiative based on the evidences that it has.

171. There may be provided additional means of notification of interested parties on the possible application of countervailing measure in accordance with paragraph 169 of this Protocol in the legislation of the member States.

7. Duration and review of countervailing measure

172. Countervailing measure shall be applied upon decision of the Commission in the amount and during the period, required for eliminating injury to sector of economy of member States due to subsidized import.

173. Duration of countervailing measure shall not exceed 5 years from the date of start of application of such measure or from the date of completing review, that was held in connection of changed circumstances and concerned at the same time, analysis of subsidized import and related with it injury to sector of economy of member States or in connection with expiration of duration of countervailing measure.

174. Review in connection with expiration of duration of countervailing measure shall be conducted on the basis of written application submitted in accordance with the paragraphs 186-198 of this Protocol, or upon initiative of the investigating body.

Review, in connection with expiration of duration of countervailing measure, is conducted if the application contains information about possibility to renew or continue subsidized import and inflict injury to sector of economy of member States upon expiration of countervailing measure.

Application for review due to expiration of duration of countervailing measure shall be submitted no later than 6 months before expiration of duration of countervailing measure.

Review shall be started before expiration of duration of countervailing measure and completed within 12 months from the date of its start.

Prior to completion of review conducted in accordance with provisions of this paragraph, application of countervailing measure shall be extended upon decision of the Commission. Within the period for which relative countervailing measure application is extended, countervailing duties, which were determined in connection with application of countervailing measure, term of validity of which is extended due to conducting of review, shall be paid in the manner determined for collection of provisional countervailing measures.

If upon the results of review due to expiration of duration of countervailing measure, the investigating body found that there are no grounds for application of

countervailing measure or was taken a decision on non-use of countervailing measure in accordance with the paragraph 272 of this Protocol, amounts of countervailing duty, charged in the manner, determined for charging provisional countervailing duties during period of extension of application of countervailing measure, shall be returned to payer in order determined in appendix to this Protocol.

The investigating body shall in due time inform customs authorities of member States about taking decisions specified in subparagraph 6 of this paragraph.

Validity of countervailing measure shall be extended by the Commission in case if upon results of review due to expiration of duration of countervailing measure, the investigating body will determine possibility to renew or continue subsidized import and infliction of injury to sector of economy of member States. From the date of entry into force of act of the Commission about extension of countervailing measure, amounts of countervailing duties, charged in the manner stated for charging of provisional countervailing duties within the period of extension of countervailing measure application, shall be entered and distributed in the manner, determined in appendix to this Protocol.

175. At the request of interested person, if after introduction of countervailing measure passed at least one year or upon initiative of the investigating body, review can be conducted in order to determine expediency to continue application of countervailing measure and (or) its review, including review of individual amount of rate of countervailing duty in connection with changed circumstances.

Depending on purposes of filing application about conducting of review due to changed circumstances, such application shall include evidence that:

continued use of countervailing measure is not required to counteract subsidized imports and eliminate injury to sector of economy of member States due to subsidized import, or

existing amount of countervailing measure exceeds amount sufficient to counteract subsidized import and eliminate injury to sector of economy of member States due to subsidized import; or

existing countervailing measure is not sufficient to counteract subsidized import and eliminate injury to sector of economy of member States due to subsidized import.

Review due to altered circumstances shall be completed within 12 months from the date of its beginning.

176. Provisions of section VI of this Protocol, concerning submission of evidences and conduct of investigation, shall be applied to reviews, provided by the paragraphs 172-178 of this Protocol, subject to corresponding differences.

177. The provisions of the paragraphs 172-178 of this Protocol shall be applied to undertakings, assumed by exporting third country or exporter in accordance with the paragraphs 154-163 of this Protocol, subject to corresponding differences.

178. Review can also be conducted in order to determine amount of individual rate of countervailing duty for exporter, in relation to which countervailing measure is applied, but investigation on reasons other than waiver of collaboration was not conducted. Such review can be started by the investigating body, upon request of indicated exporter.

8. Determining of countervailing measure circumvention

179. Compensation measure circumvention shall be considered as change in way of deliveries of product for avoiding payment of countervailing duty or execution of assumed voluntary undertakings.

180. Review for determining circumvention of countervailing measure can be initiated upon request of interested person or upon the initiative of the investigating body.

181. Application that is specified in the paragraph 180 of this Protocol shall contain evidences of:

1) countervailing measure circumvention

2) neutralization of effect of countervailing measure (due to its circumvention) on production volumes and (or) sales and (or) prices of like product on market of member States;

3) preservation of benefits of providing specific subsidies from manufacturer and (or) exporter of goods (integrated parts and (or) derivatives of such goods).

182. For the period of review, conducted in accordance with the paragraphs 179-185 of this Protocol, the Commission can, in the manner specified for collection of provisional compensation duties, introduce countervailing duty for integrated parts and (or) derivatives of product, which is a subject of subsidized import, imported to the customs

territory of the EAEU from exporting third country, as well as for product, being a subject of subsidized import, and (or) its integrated parts and (or) derivatives, imported to the customs territory from any other exporting third country.

183. If upon results of review, conducted in accordance with the paragraphs 179-185 of this Protocol, the investigating body, does not determine circumvention of countervailing measure, amounts of countervailing duties, paid in accordance with this Protocol and in the manner specified for collection of provisional countervailing duties, shall be refunded to payer, in the manner, determined in appendix to this Protocol.

The investigating body shall in due time inform customs authorities of member States about taking decisions, specified in the first section of this paragraph.

184. In case of determining of circumvention of countervailing measure, applicable in accordance with this Protocol, upon results of review conducted in accordance with the paragraphs 179-185 of his Protocol, countervailing measure can be applied to integrated parts and (or) derivatives of product, which is a subject of subsidized import, which are imported to the customs territory of the EAEU from exporting third country, as well as to product, being a subject of subsidized import, and (or) its integrated parts and (or) derivatives, imported to the customs territory of the EAEU from any other exporting third country. From the moment of entry into force of the act of the Commission on introduction of countervailing measure, specified in this paragraph, amounts of countervailing duties paid in the manner specified for collection of provisional countervailing duties, shall be entered and distributed in the manner, determined in the appendix to this Protocol.

185. Review in order to determine countervailing measure circumvention shall be completed within 9 months from the date of its commencement.

VI. Conducting Investigations

1. Basis for investigation

186. An investigation for the purpose of establishing the presence of increased imports and the resulting serious injury to the member States' economy sector or a threat of such a injury, as well as for the purpose of establishing dumping or subsidized imports

with the resulting material injury, a threat of such a injury or significant slowdown in the formation of the member States' economy sector, is held by the investigating body based upon the written application or on its own initiative.

187. The application referred in paragraph 186 of this Protocol, is submitted by:

1) a manufacturer of like or directly competing goods (upon the application on safeguard measures administration), or like goods (upon the application on antidumping or countervailing measures administration) in the member States or his/her authorized representative;

2) an association of manufacturers the number of which comprises manufacturers of a substantial part, but not less than 25 percent of total production volume of a like or directly competing goods (upon the application on safeguard measures administration), or like goods (upon the application on antidumping or countervailing measures administration) in member States or his/her authorized representative.

188. The authorized representatives of such manufacturers and associations shall have duly structured powers, confirmed by documents, originals of which are submitted to the investigating body along with the application.

189. The application specified in paragraph 187 of this Protocol shall be accompanied by the application evidence support by manufacturers of like or directly competitive or like goods in member States. The following sufficient evidences of application support are:

1) documents on joining to the application of other manufacturers of like or directly competitive goods in the member States, who along with the applicant produce the substantial part, but not less than 25 percent of the total production volume of like or directly competitive goods in the member States (upon the application on safeguard measures administration);

2) documents which confirm that the share of production of like goods by manufacturers in the member States (including the applicant) supporting the application, is at least 25 percent of the total production volume of like goods in the member States, on the condition that the production volume of like goods of manufacturers in the member States (including the applicant) supporting the application, constitutes more than 50

percent of the production volume of like goods of manufacturers in member States, who expressed their opinion (support or disagreement) regarding the application (upon the application on antidumping or countervailing measures administration).

190. The application referred in paragraph 186 of this Protocol, shall contain:

1) information about the applicant on the volume of production in quantitative and cost expression of like or directly competing goods (upon the application on safeguard measures administration), like goods (upon the application on antidumping or countervailing measures administration), on the member States' economy sector for 3 years which preceded the application submission date, as well as on the production volume in quantitative and cost expression of like or directly competing goods (upon the application on safeguard measures administration) or like goods (upon the application on antidumping or countervailing measures administration) by manufacturers in member States who supported the application, and on their share in the total production volume in member States of like or directly competing goods (upon the application on safeguard measures administration) or like goods (upon the application on antidumping or countervailing measures administration);

2) description of the imported into EAEU customs territory goods in respect of which it is proposed to introduce safeguard antidumping or countervailing measures with the indication of the EAEU HS code;

3) names of exporting third countries from where the given goods are originated or departed, based on the information of customs statistics;

4) the information about well-known manufacturers and(or) exporters of these goods within the exporting third country, about well-known importers and major consumers of these goods in member States ;

5) the information on the change of import volume into EAEU customs territory for the prior period, as well as for the subsequent period for which by the application submission date there is the available statistical data on goods in respect of which it is proposed to introduce safeguard, antidumping or countervailing measure;

6) the information on the change of the export volume of like or directly competing goods (upon the application on safeguard measures administration), or like goods (upon

the application on antidumping or countervailing measures administration) from the EAEU customs territory for a prior period, and for a subsequent period for which by the application submission date there is the available statistical data.

191. Along with the information specified in paragraph 190 of this Protocol, depending on the proposed in the application measure, the applicant specifies:

1) the evidences of the increased import of goods, evidences of serious injury to the member States' economy sector or a threat of such injury due to the increased import of goods, the proposal of safeguard measures introduction indicating the extent and the term of such a measure, as well as the plan of measures on the adaptation of the member States' economy sectors to work in conditions of foreign competition within the term of the proposed by the applicant safeguard measure (upon the application on safeguard measures administration);

2) the information about the export price and goods fair value, evidences of material injury or a threat of such a injury or a significant slowdown of the member States' economy sector formation due to the dumping import of goods, as well as an offer on the introduction of antidumping measures with the indication of its size and the term of validity (upon the application of antidumping measures administration);

3) the information about the presence and the character of specific subsidy of the exporting third country and, if possible, its size, the evidence of material injury or a threat of such a injury or a significant slowdown of the member States' economy sector formation due to the subsidized import of goods, as well as the proposal on the introduction of countervailing measures with the indication of its extent and a term of validity (upon the application on countervailing measures administration).

192. The evidences of the presence of significant injury or a threat of such a injury or a significant slowdown of the member States' economy sector (upon the application on safeguard measures administration) and evidences of material injury or a threat of such a injury or a significant slowdown of the member States' economy sector due to the dumping of importer subsidized import (upon the application on antidumping or countervailing measures administration) shall be based upon objective factors which characterize the economic status of the member States' sector, and shall be expressed in

quantitative and (or) cost indicators for the preceding period, as well as for the subsequent period for which by the application submission date there is the available statistical data (including goods production volume and the volume of its realization, share of goods in the member States' market, goods production cost price, goods price, degree of production capacity load, employment, labor productivity, profit, production profitability, goods sales volume, volume of investments in the member States' economy).

193. The information presented in the application shall be accompanied by a reference to the source of such information.

194. At specifying indicators contained in the application, for the purpose of comparability, single monetary and quantitative units shall be used.

195. The information contained in the application shall be certified by manufacturers' managers presented such information, as well as by their employees responsible for accounting and accounting reporting in the part concerning the information that is directly relevant to manufacturers' information.

196. The application with appendix of its non-confidential version (if the application contains confidential information) is submitted to the investigating body in accordance with the provisions of paragraph 8 of this Protocol and shall be registered on the day of application submission to this agency.

197. The application submission date is considered to be the date of registration of such an application in the investigating body.

198. The application on safeguard measure administration, antidumping or countervailing measure is rejected due to the following:

non-presentation of materials specified in paragraphs 189-191 of this Protocol when submitting the application;

unreliability of submitted by the applicant materials mentioned in paragraphs 189-191 of this Protocol;

non-presentation of non-confidential version of the application.

The rejection of the application on other grounds is not allowed.

2. Initiation and conducting the investigation

199. The investigating body before deciding whether to initiate the investigation, shall notify in written form the exporting third country on the receipt of the prepared, in accordance with the provisions of paragraphs 187-196, application of this Protocol on antidumping or countervailing measures administration.

200. The investigating body before deciding whether to commence the investigation within 30 calendar days from the date of registration of the application shall study the sufficiency and reliability of evidences and the information contained in this application, in accordance with paragraphs 189-191 of this Protocol. This period may be extended if it is necessary for the investigating body to obtain more information, but in all cases it should not exceed 60 calendar days.

201. The application may be withdrawn by the applicant prior to the investigation is initiated or in the course of the investigation.

The application is not considered as submitted if it is withdrawn before the investigation is commenced.

If the application is withdrawn during its course, the investigation is ceased without the introduction of safeguard, antidumping or countervailing measures.

202. Before deciding whether to commence an investigation, the information contained in the application shall not be disclosed in public.

203. The investigating body, prior to expiration period specified in paragraph 200 of this Protocol, decides to commence the investigation or refuses to conduct it.

204. When deciding whether to initiate the investigation, the investigating body notifies in written form the authorized body of the exporting third country, as well as other known interested parties about the decision and provides, within a period not exceeding 10 working days from the decision date, the notification publication on the investigation initiation in official sources provided by the Agreement.

205. The date of the notification publication about the investigation initiation on the official Commission website on the Internet is recognized as the date of the investigation initiation.

206. The investigating body can take a decision on investigation initiation, including on its own initiative, only if it has evidences of the increased import and the resulting

substantial injury or threat of such a injury to the member States' economy sector or the presence of dumping or subsidized imports and the resulting material injury, a threat of such a injury or significant slowdown of the member States' economy sector formation.

If the available evidences are insufficient, such an investigation could not be initiated.

207. The decision on rejection of conducting the investigation shall be accepted in case the investigating body, according to the results of application approval, revealed that the information submitted in accordance with paragraph 190-191 of this Protocol, does not indicate the presence of the increased, dumping or subsidized imports of goods to the EAEU customs territory and/or the resulting material injury or a threat of causing material injury to the member States' economy sector due to dumping or subsidized imports or the substantial injury (threat of substantial injury) to the member States' economy sector due to the increased import to the EAEU customs territory.

208. At the decision on investigation rejection the investigating body shall inform the applicant, in written form not later than 10 calendar days from the date of such a decision about the reason of investigation rejection.

209. Interested parties are authorized to declare their intention to participate in the investigation in written form and the established in accordance with this Protocol terms. They are recognized as participants of the investigation from the date of registration by investigating body of the application on the intention to participate in the investigation.

The applicant and manufacturers in member States who supported the application are recognized as participants of the investigation from the date of investigation commencement.

210. Interested parties may submit, in terms which do not violate the progress of the investigation, necessary for investigation information, including confidential information indicating the source of such information.

211. The investigating body shall be authorized to request the interested party for additional information for investigative purposes.

The requests may also be forwarded to the other organizations in the member States.

The request is considered as received by the interested party from the moment of its transfer to the authorized representative of the interested party or after 7 calendar days from the date when the request was sent by post.

The answer of the interested party shall be submitted to the investigating body not later than 30 calendar days from the date of request reception.

A response is considered as received by the investigating body if it arrived to the investigating body not later than 7 calendar days from the expiration date specified in passage 3 of this paragraph on 30 days term.

The information provided by the interested party upon expiration of the specified date may not be taken into account by the investigating body.

On the interested party's motivated and written request the term for reply submission may be extended by the investigating body.

212. If the interested party rejects the investigating body in providing necessary information, does not submit it on time, or submits unreliable information, thus significantly complicating the investigation, such an interested party is considered to be uncooperative, and preliminary or final conclusions can be made by the investigating body on the basis of available information.

Non-submission of the requested information in electronic form or in specified by the investigating body electronic format is considered by the investigating body as non-cooperation, provided that the relevant interested party can prove that the full implementation of criteria for the provision of the information specified in the investigating body's request is not possible or is associated with significant material costs.

If the investigating body does not take into account the information provided by the interested party for reasons other than those referred in the first passage of this clause, the body shall be informed about the reasons and grounds for this decision and it shall be given the opportunity to present, in this regard, comments within the terms set by the investigating body.

If during the preparation of any preliminary or final conclusion of the investigating body, including the determination of goods fair value (at conducting antidumping investigation) provisions of the first passage of the present clause were applied and the

information was used, including the one which was provided by the applicant - the information used in the preparation of these conclusions shall be checked using the available information obtained from third sources or from interested parties, provided that such a check will not hinder the investigation progress and will not lead to nonobservance of terms of its conducting.

213. The investigating body within the shortest term, after making the decision on the beginning of antidumping or countervailing investigation, shall send to the authorized body of the exporting third country and known to him exporters copies of the application or non-confidential version if the application contains confidential information, as well as provides such copies to other interested parties upon request.

In case if the number of known exporters is abundant, the copy of the application or non-confidential version is sent only to the authorized body of the exporting third country.

The investigating body provides copies of the application or non-confidential version to participants of safeguard investigations upon their request, if the application contains confidential information.

During the investigation the investigating body, taking into account the necessity of confidential information protection, provides to the investigation participants at their request the opportunity to review the information submitted in written form to any interested parties as evidences related to the investigation.

During the investigation the investigating body provides to investigation participants the possibility to review other information relevant to the investigation and which is used by them in the course of the investigation, but being non-confidential.

214. Upon interested parties' request the investigating body conducts consultations on the conducting investigation.

215. During the investigation all interested parties may protect their interests. To this end the investigating body provides to all interested parties at their request the opportunity to have a meeting so that they could present opposing points of view and to offer rebutments. Such an opportunity is provided taking into account the need of information confidentiality. It is not obligatory for all interested parties to attend the meeting, and the absence of any party shall not injury its interests.

216. Consumers which use goods that are object of investigation in manufacture of products, representatives of public associations of consumers, public authorities (departments), local governments and other bodies are authorized to submit to the investigating body the information that is relevant to the investigation.

217. The duration of the investigation shall not exceed:

1) 9 months from the date of the investigation commencement on the basis of safeguard measure administration. This period may be prolonged by the investigating body, but not more than for 3 months;

2) 12 months from the date of investigation commencement on the basis of antidumping or countervailing measures administration. This period may be prolonged by the investigating body, but for not more than 6 months.

218. The course of the investigation shall not hamper customs operations in respect of goods that are the object of the investigation.

219. The date of the investigation completion is the date of the Commission's approval of the report on the results of the investigation and of the Commission act project indicated in the paragraph 5 of this Protocol.

If the investigating body made a final conclusion about the absence of grounds for application, review or cancellation of safeguard, antidumping or countervailing measures, the date of the investigation completion shall be the date of a relevant notice publication by the investigating body.

In case of introduction of special provisional duty, provisional antidumping duty or provisional countervailing duty the investigation shall be completed before the expiration date of relevant provisional duties.

220. If the investigating body during the investigation course comes to a conclusion about the absence of grounds provided by passages 2 or 3 of paragraph 3 of this Protocol, the investigation is ceased without the introduction of safeguard, antidumping or countervailing measures.

221. If within two calendar years immediately preceding the date of the investigation commencement, one manufacturer, supporting the application referred in paragraph 186 of this Protocol (with the account of its entering the group of bodies in the

sense of section XIII of the Agreement), has such a share of production in the EAEU customs territory of like or directly competitive product (in the course of the investigation preceding safety measure administration), or like goods (in the course of the investigation of antidumping or countervailing measures administration), at which in accordance with the methodology of competition assessment, approved by the Commission act the provision of this manufacturer (with the account of its entering the group of bodies) in the corresponding EAEU' goods market can be recognized as dominant, the authorized body in the sphere of control over compliance with the uniform competition rules of the United economic area upon the request of the investigating body, assesses the impact of safeguard, antidumping or countervailing measures on competition in the relevant goods market of the EAEU.

3. Peculiarities of antidumping investigation

222. The antidumping investigation is ceased without introduction of antidumping measures if the investigating body establishes that the dumping margin is less than the minimum dumping margin or the amount of the occurred or of the possible dumping of imports or the size of the resulting from such an import material injury or a threat of such a injury or significant slowdown of the formation of the member States' economy is insignificant.

The minimum permissible dumping margin is understood as the dumping margin the amount of which does not exceed 2 percent.

223. The amount of dumping import from a certain exporting third country is insignificant if it is less than 3 percent of total imports of goods which are subject of the investigation to the EAEU customs territory, provided that the exporting third countries, the individual share of which in the total volume of imports is less than 3 percent of total imports of goods which are subject to investigation into the EAEU customs territory, in the aggregate have no more than 7 percent of total imports of goods which are subject to the investigation into the EAEU customs territory.

224. The investigating body, prior to a decision on the results of antidumping investigation, shall inform interested parties about the main conclusions on investigation

results, taking into account the necessity of confidential information protection and provides the opportunity to make comments.

The submission date for interested parties' comments is established by the investigating body, but may not be less than 15 calendar days.

4. Peculiarities of countervailing investigation

225. After the application approval and before a decision on the investigation commencement the investigating body shall propose to the authorized body of the exporting third country, from where goods are exported in respect of which it is proposed to introduce the countervailing measure, to hold consultations in order to clarify the situation regarding the availability, extent and consequences of the submission of the assumed specific subsidy and to achieve mutually acceptable decisions.

Such consultations may continue in the course of the investigation.

226. Consultations referred in paragraph 225 of this Protocol, shall not hamper the approval of the decision on the investigation commencement and countervailing measure administration.

227. Countervailing investigation shall be ceased without the introduction of countervailing measures if the investigating body establishes that the amount of the specific subsidy of the exporting third country is minimal or volume of the occurred or the potential subsidized import or the size of material injury resulting from the import, or a threat of such injury, or significant slowdown of the member States' economy formation is insignificant.

228. The amount of the specific subsidy is recognized as minimal if it is less than 1 percent of goods value which is the object of the investigation.

The volume of subsidized import, as a rule, is considered as insignificant if it is less than 1 percent of total import of like goods into the EAEU customs territory, provided that the exporting third countries, the individual import share of each is less than 1 percent of total imports of like goods into the EAEU customs territory, in the aggregate have no more than 3 percent of total imports of like goods into the EAEU customs territory.

229. Countervailing investigation in respect of goods which are subject of the subsidized import and originating from a developing or least developed country which is a

user of EAEU tariff preferences system, shall be ceased if the investigating body establishes that the total amount of the specific subsidy of the exporting third country, provided in respect of these goods, does not exceed 2 percent of its value per unit or the import share of these goods from such a third country in the total volume of import of these goods to the EAEU customs territory is less than 4 percent, provided that the total share of the import of these goods into the EAEU customs territory from developing and least developed countries, the share of each is less than 4 percent of the total imports volume into the EAEU customs territory, does not exceed 9 percent of the total imports volume of these goods into the EAEU customs territory.

230. The investigating body prior to a decision on countervailing investigation results shall inform all interested parties about the main conclusions made in the course of the investigation, taking into account the necessity to protect confidential information, and shall provide the opportunity to make comments.

The submission date of the interested parties' comments is established by the investigating body, but may not be less than 15 calendar days.

5. Features of defining the certain sectors of economy of the member States in the case of the dumped or subsidized imports

231. When conducting the anti-dumping or countervailing investigations, the sector of the economy of the member States shall have the meaning provided in the Article 49 of the Treaty, except for the cases specified in Paragraphs 232 and 233 of this Protocol.

232. If the manufacturers of like products in the member States are simultaneously importing goods of the presumably dumped or subsidized imports, the sector of the economy of the member States can mean only other manufacturers of like goods in the member States.

Sector of the economy of the member States can also mean only the other manufacturers of like goods in the member States in case if:

- 1) particular manufacturers of like goods in the member States, either directly or indirectly control the exporters or importers of the product under investigation;

- 2) particular exporters or importers of the product under investigation, directly or indirectly control the manufacturers of like goods in the member States;

3) particular manufacturers of like goods in the member States and the exporters or importers of the product under investigation, are directly or indirectly controlled by a third person;

4) particular manufacturers of like goods in the member States and foreign manufacturers, exporters or importers of the product under investigation, directly or indirectly control a third person, provided that the investigating body, has reason to believe that such a bond is caused by behavior of such manufacturers differing from unrelated persons.

233. In exceptional cases, when defining the economy sectors of the member States the territory of the states can be regarded as an area where there are 2 or more geographically separate competing markets, and manufacturers in the member States within one of these markets can be considered as a separate sector of the economy of the member States, if such manufacturers sell for consumption or processing in such market at least 80 percent of like goods produced by them, and demand in such market for like goods is not satisfied to a large extent by manufacturers of such goods located in the rest of the member States.

In such cases the fact of material injury, the threat of causing such injury or substantial retardation of the establishment of the economy sector of the member States as a result of dumped or subsidized imports can be defined even when no injury caused to the main part of the economy sector of the member States, provided that the sale of the goods being subject to dumped or subsidized import is concentrated on one of the competing markets and the dumped or subsidized import causes injury to all or almost all manufacturers of like goods in the member States within one of such markets.

234. If the economy sector of the member States shall have the meaning specified in Paragraph 233 of this Protocol, and the results of the investigation, a decision is made on the application of anti-dumping or countervailing measure; such a measure can be applied to all imports of goods into the customs territory of the EAEU.

In this case, the anti-dumping or countervailing duty is introduced only after providing by the investigating body of the possibility to exporters of goods to stop exporting to the given territory of such goods at dumping prices (in case of the dumped

imports) or at subsidized prices (in case of subsidized imports), or to take the commitment regarding the conditions of export into the customs territory of the EAEU, provided that such possibility has not been used by the exporters.

6. The public hearings

235. On the basis of the petition submitted by any of the participants in the investigation in writing and within the term established in accordance with this Protocol, the investigating body provides the conduction of the public hearings.

236. The investigating body is required to provide the participants of the investigation with the notice of the time and place of the public hearings, as well as a list of issues addressed in the course of the public hearings.

The date of the public hearings shall be appointed no earlier than 15 calendar days from the date of the notice provision.

237. Participants of the investigation or their representatives, as well as persons involved by them may participate in a public hearing in order to represent their available information related to the investigation.

During the public hearings, participants of the investigation can express their views and present evidence relevant to the investigation. The representative of the investigating body has the right to ask the participants of public hearings questions regarding the facts they report. The participants in the investigation are also entitled to ask each other questions and must provide answers to them. The participants of public hearings are not required to disclose information that is considered confidential.

238. The information presented at the public hearing orally, is taken into account during the investigation, if within 15 calendar days after the public hearings they were provided by participants of the investigation to the investigating body, in writing.

7. Collection of information during the investigation

239. After the decision to start antidumping or countervailing investigation, the investigating body forwards a list of questions to the exporters and (or) manufacturers of the product under investigation known to him, that they must answer.

The list of questions is also sent to manufacturers of like or directly competing goods (in the case of special protection investigation), or like goods (in the case of an anti-dumping or countervailing investigations) in the member States.

If necessary, a list of questions can be forwarded to importers and consumers of the product under investigation.

240. The persons referred to in Paragraph 239 of this Protocol, which have been sent a list of questions, are obliged, within 30 calendar days from the date of receipt by them of the above-said list, to submit their responses to the investigating body.

Upon a motivated and described in writing request of persons referred to in Paragraph 239 of this Protocol, this period may be extended by the body conducting the investigation, for not more than 14 calendar days.

241. List of questions is deemed to be received by the exporter and (or) the manufacturer of the goods within 7 calendar days from the date of sending by mail or the day of transfer directly to the exporter and (or) the manufacturer.

Answers to questions included in the list shall be deemed received by the investigating body, if they reach the investigating body, in confidential and non-confidential versions no later than 7 calendar days from the date of expiry of the 30-day period specified in Paragraph 240 of this Protocol, or the date of expiry extension.

242. The investigating body must ensure the accuracy and reliability of the information provided by the interested parties during the investigation.

In order to verify the information submitted in the course of the investigation, or to obtain the additional information related to the ongoing investigation, the investigating body, if necessary, can conduct an inspection:

- on the territory of a third country, subject to the obtaining of a consent of the foreign exporters and (or) the manufacturers of the product under investigation and absence of the objections from the third country, which has been officially informed of the upcoming inspection;

- on the territory of a member State, subject to the obtaining of a consent of the importers of the product under investigation, and (or) the manufacturers of the like or directly competing goods.

The inspection is carried out after receiving the answers to lists of questions sent by the investigating body, in accordance with Paragraph 224 of this Protocol, except for the cases when a foreign manufacturer or exporter voluntarily agrees to conduct the inspection prior to such responses in the absence of objection by the relevant third country.

After obtaining the consent of the participants in the investigation and before the inspection they are sent a list of documents and materials that must be submitted to the staff forwarded to conduct the inspection. The investigating body shall notify the third country on the addresses and names of foreign exporters or manufacturers who are planned to be inspected, as well as of the dates of such inspections.

During the inspection other documents and materials necessary to confirm the truthfulness of the responses to the questionnaire information may also be requested.

If during the inspection the investigating body intends to engage, for the purposes of such inspection, the experts who are not employees of the body, participants in the investigation in respect of which it is supposed to carry out the inspection activities must be notified in advance of such decision of the investigating body. The participation of such experts in the inspection is allowed only in case of the possibility of sanctions for the violation of the confidentiality of information obtained in connection with the inspection.

243. In order to verify the information submitted during the investigation or additional information related to the ongoing investigation, the investigating body shall have the right to send representatives to the location of interested parties to gather information, consultation and negotiation with the interested parties, to familiarize itself with the samples of the goods and to take other necessary actions to conduct an investigation.

8. Submission of information by the authorized bodies of the member States, diplomatic and trade representatives of member States

244. For the purposes of this paragraph the term "competent authorities" of the member States refers to public authorities (government) and territorial (local) public authorities (administration) of member States authorized in the field of customs, statistics, taxation, registration of legal entities and other areas.

245. The authorized bodies of the member States, as well as diplomatic and trade missions of member States in third countries, provide the investigating body, information required by this Protocol upon its requests, necessary for initiating and conducting of safeguard, antidumping and countervailing investigations, including recurrent, preparation of proposals on the results of the investigations, monitoring the effectiveness of the introduction of safeguard, antidumping and countervailing measures and monitoring compliance with commitments approved by the Commission's decision.

246. The authorities referred to in the first indent of this paragraph are obliged to:

within 30 calendar days of receipt of the request of the investigating body, to make information available to them or to warn about impossibility to provide information stating the reasons for refusal. Upon a motivated request of the investigating body, the information requested must be provided in a shorter period;
ensure the completeness and accuracy of the data and if necessary to quickly provide additions and changes.

247. The authorities referred to in the first indent of this paragraph, in the framework of their competence provide investigating body the information on the requested time periods, including:

1) statistics on foreign trade;

2) data of goods declarations (hereinafter - GD) disaggregated by customs procedures specifying the physical and value indicators of import / export of goods, the commercial name of the product from DT, terms of delivery, the country of origin (country of departure, country of destination), the name and other account details of the sender and the recipient;

3) information on the domestic market of the product under investigation and the relevant sectors of the economy of member States, including data on production volume, manufacturing capacity load, sales of goods, the cost of goods, profits and losses of national companies of member States, the prices of goods in the domestic market of member States, the profitability of production, number of employees, investment, goods manufacturers list;

4) information on the assessment of the possible introduction or non-introduction of safeguard, antidumping or countervailing measures on the results of a proper investigation into the market of the product under investigation, the member States, as well the forecast of production activities of national companies of member States.

248. The list of information, indicated in paragraph 247 is not exhaustive. If necessary, the investigating body is entitled to request any other information.

249. Correspondence on the implementation of the provisions of this paragraph and presentation of information upon the requests of the investigating body, are carried out in Russian. On individual details (indicators) containing foreign names it is permitted to provide information, using the Latin alphabet.

250. Presentation of information is carried out mainly on electronic data carriers. In the absence of reporting on electronic data carriers the information is transferred to the paper. The information requested in the form of tables (statistical and customs data) is presented in the format specified in the request investigating body. If the presentation of information in this format is not possible, the authorities referred to in the first indent of this paragraph shall notify the investigating body, and presents the information requested in a different format.

251. Requests to the authorities referred to in the first indent of this paragraph, to provide information are documented in writing on the letterhead of the investigating body, and signed by the manager (or his deputy) of the investigating body, stating the purpose, legal basis and the deadline for submission of information.

252. Information at the request of the investigating body is provided by the authorities referred to in the first indent of this paragraph, free of charge.

253. Information transfer is performed by agreed between exchanging bodies means available at the time of the transfer and providing safety and protection of information from unauthorized access. In case of sending information by facsimile communication the original document must also be sent by post.

9. Confidential information

254. Information considered by the legislation of a member State as a confidential information, including commercial, tax and other confidential information, except state

secrets (the state secrets), or proprietary information of limited distribution, is presented to the investigating body, in compliance with the requirements established by law of the member State to such information.

The investigating body provides the necessary level of protection of such information.

255. Information submitted by the interested party to investigating body is considered confidential in case of submitting of justifications by this person including evidence that the disclosure of such information will provide a competitive advantage to a third party or entail adverse consequences for the person submitting such information, or to the person from whom they have received such information.

256. Interested parties representing confidential information are obliged to submit non-confidential version of such information along with it.

Non-confidential version should be sufficiently detailed for understanding of the information provided in a confidential form.

In exceptional cases, interested parties may provide justification of the impossibility of representing confidential information in non-confidential form, setting out the reasons why it is impossible to represent a non-confidential version.

257. In case the investigating body finds that the reasons presented by the interested party do not allow to relate the information as a confidential information or the interested party has not submitted the non-confidential version of the confidential information, does not provide a justification of the impossibility of representing confidential information in the form of non-confidential information, or represents information that is not a justification for the impossibility of the provision of the confidential information in non-confidential form, the investigating body, may not consider this information.

258. The investigating body shall not divulge or pass the confidential information to the third parties without the written consent of the provider of such information of the interested party or body referred to in first indent of paragraph 229 of this Protocol.

For the disclosure, the use, for the purpose of personal gain, other misuse of confidential information provided to the investigating body, applicants, participants of investigations, interested persons or entities referred to in first indent of paragraph 229 of

this Protocol, for the purposes of conducting the investigations, officers and employees of the investigating body, may be deprived of the privileges and immunities provided by an international treaty within the EAEU on the Privileges and Immunities, and prosecuted in the manner and according to rules approved by the Commission.

This Protocol does not preclude the disclosure by the investigating body, of the reasons underlying the decision of the Commission, or the evidence on which the Commission relied, to the extent that it is necessary to explain those reasons or evidence in the Court of the EAEU.

The order of use and protection of confidential information by the investigating body is approved by the Commission.

10. Interested parties

259. The interested parties during the investigation are:

1) manufacturer of like or directly competitive goods (during the special safeguard investigations) or a like product (during an anti-dumping or countervailing investigations) in the member States;

2) association of manufacturers in the member States, the majority of participants of which are manufacturers of the like or directly competitive goods (during the special safeguard investigations) or a like product (during an anti-dumping or countervailing investigations);

3) association of manufacturers of member States, whose members carry out production of more than 25 percent of the total production of the like or directly competitive goods (during the special safeguard investigation) or a like product (during an anti-dumping or countervailing investigations) in the member States;

4) exporter, foreign manufacturer or the importer of the product under investigation, and the union of foreign manufacturers, exporters or importers of goods, a significant portion of participants of which are manufacturers, exporters or importers of the goods from the exporting third country or country of origin;

5) competent authority of the exporting third country or country of origin;

6) consumers of the goods under investigation, if they use such goods in the production process and the consolidations of such consumers in the member States;

7) associations of consumers, if the product is object of consumption primarily by individuals.

260. Interested parties are acting in course of the investigation on their own or through their representatives, who have duly appointed credentials.

If the interested party during the investigation acts through an authorized representative, the investigating body bring to the attention of the interested party all the information about the subject of the investigation only through this representative.

11. Notification of the decisions taken in connection with the investigations

261. The investigating body publishes on the official website of the Commission the following notifications of the decisions taken in connection with investigations:

on the initiation of investigation;

on the imposition of provisional special, provisional antidumping and provisional countervailing duty;

on the possible application of antidumping duty in accordance with paragraph 104 of this Protocol and possible application of countervailing duty in accordance with paragraph 169 of this Protocol;

on termination of safeguard investigation;

on other taken decisions.

Such notifications are also sent to the authorized body of the exporting third country and other interested parties known to the investigating body.

262. Notice of initiation of an investigation shall contain:

1) a complete description of the goods under investigation;

2) name of the exporting third country;

3) The short summary indicating the presence of increased imports into the customs territory of the EAEU, and presence of a serious harm or the threat of serious harm to sectors of the economy of the member States (at deciding whether to initiate a special safeguard investigation);

4) The short summary indicating the presence of dumped or subsidized imports and the availability of material harm or the threat of material harm to the industry of the economy of the member States or a significant slowdown of creating of the sectors of the

economy of the member States (at deciding whether to initiate an anti-dumping or countervailing investigation);

5) address at which the interested parties may submit their views and information related to the investigation;

6) time limit of 25 calendar days during which the investigating body, receives statements of intent to participate in the investigation from interested parties;

7) time limit of 45 calendar days during which the investigating body receives petitions for a public hearing from the participants of the investigation;

8) time limit of 60 calendar days during which the investigating body, receives comments and information related to the investigation in writing from interested parties.

263. Notice of the imposition of a provisional special, provisional anti-dumping or provisional countervailing fee must also contain the following information:

1) name of the exporter of the product under the investigation, or if the data is not possible to provide, the name of the exporting third country;

2) description of the product under the investigation sufficient for the purposes of customs control;

3) grounds for a positive conclusion on the presence of the dumped imports, indicating the size of the dumping margin and describing the basis for the choice of methodology for calculating and comparing the normal value of the goods and its export price (with the introduction of the provisional anti-dumping duty);

4) grounds for a positive conclusion on the presence of subsidized imports with the description of the fact of presence of subsidies and an indication of the calculated amount of the subsidy per unit of goods (with the introduction of the provisional countervailing duty);

5) grounds for determining the existence of serious or material harm, the threat of such harm or substantial retardation of the establishment of the sectors of the economy of the member States;

6) grounds for establishing a causal link between increased imports, dumped or subsidized imports and respectively or serious material harm, the threat of such harm or substantial retardation of creating sectors of the economy of the member States;

7) grounds for a positive conclusion on the presence of increased imports (with the introduction of the provisional special duty).

264. Notice on the possible application of antidumping duty in accordance with paragraph 104 of this Protocol and possible application of countervailing duty in accordance with paragraph 169 of this Protocol should contain:

1) description of the product under investigation sufficient for the customs procedures;

2) name of the exporter of the product under investigation or name of the exporting third country (if name of the exporter is not known)

3) brief information, proving the fulfillment of conditions specified in paragraphs 104 and 169.

265. Notice on the results of the special safeguard investigation should contain the main conclusions drawn by the investigating body, based on the analysis of the information available to it, and to be published by the investigating body, within 3 working days from the date of completion of the investigation.

266. Notice of completion of the investigation, by results of which investigating body has concluded that there are grounds for the introduction of anti-dumping or countervailing duties, or the advisability of approval of the respective undertakings are published within 3 business days from the date of completion of the investigation and shall contain:

1) clarification of the final conclusion of the investigating body, about the results of the investigation;

2) an indication of the facts upon which such a conclusion is made;

3) information specified in paragraph 263 of this Protocol;

4) an indication of the reasons for acceptance or rejection of the investigation arguments and demands of exporters and importers of goods under investigation;

5) an indication of the reasons for the decision in accordance with paragraphs 48-51 of this Protocol.

267. Notice of termination or suspension of an investigation in connection with the approval of the relevant undertakings should contain non-confidential version of such undertakings.

268. Notice of completion of the investigation, by results of which the investigating body has concluded that there were no grounds for the introduction of safeguard, antidumping or countervailing measures shall contain:

1) clarification of the final conclusion of the investigating body, about the results of the investigation;

2) an indication of the facts upon which such a conclusion is made.

269. Notice of completion of the investigation, which resulted in the decision on the non-action in accordance with paragraph 272 of this Protocol shall contain an explanation of the reasons for the Commission's decision on the non-application of safeguard, antidumping or countervailing measures specifying the facts and conclusions based on which such a decision is made.

270. The investigating body sends all notifications under the provisions of WTO Agreement in terms of investigations and the measures applied to the competent authorities of the World Trade Organization in the prescribed manner.

271. The provisions of paragraphs 236-245 of this Protocol shall apply *mutatis mutandis* to notices of initiation and completion of the review.

VII. Non-application of the Safeguard, Antidumping and Countervailing measures

272. The Commission, on the results of the investigation, may decide not to apply safeguard, antidumping or countervailing measures, even if the application of this measure meets the criteria established by this Protocol.

Such decisions may be adopted by the Commission if the investigating body, according to the analysis of all the information provided by interested parties, has prepared the conclusion that the use of such measures may harm the interests of the member States. Such decision may be reviewed if the reasons which form the basis of his decision have changed.

273. Conclusion referred to in paragraph 272 of this Protocol, shall be based on a collective evaluation of interests of the economy sector of member States, users of the product under investigation, if they use such goods in the production process, and associations of such consumers in the member States, associations of consumers if the product is object of consumption primarily by individuals, and importers of this product. At the same time, this conclusion can only be done after the said parties were given the opportunity to submit their comments on the matter in accordance with paragraph 274 of this Protocol.

In preparing of such conclusion particular importance should be given to the need to eliminate the distorting influence of the increased, dumped or subsidized imports on the ordinary course of trade and the state of competition on the relevant market of the member States and the industry position of the member States' economy sectors.

274. For the purposes of the application of the provisions of paragraph 272 of this Protocol manufacturers of like or directly competitive goods (during the special safeguard investigations) or a like product (with an anti-dumping or countervailing investigations) in the member States, their associations, importers and associations of importers of the goods under investigation, consumers of the product under investigation, if they use such goods in the production process and the consolidation of such consumers in the member States, associations of consumers, if the product is object of consumption primarily by individuals have the right within the period specified in the notice published in accordance with paragraph 262 of this Protocol, to submit comments and information on the matter. Such comments and information or their non-confidential version, as appropriate, shall be submitted for review to other interested parties referred to in this paragraph, which may submit their response comments.

The information provided in accordance with the provisions of this paragraph shall be taken into account regardless of its source, subject to the availability of the objective evidence to support its reliability.

VIII. Final Provisions

1. Features of appeal of decisions on the application of safeguard, antidumping and countervailing measures in court

275. The order and the peculiarities of appealing the decisions of the Commission and (or) action (or inaction) of the Commission related to the use of safeguard, antidumping and countervailing measures are defined in the Statute of the Court of the EAEU (Annex 2 to the Treaty) and Regulation of the Court of the EAEU.

2. Enforcement of Court decisions

276. The Commission shall take the necessary measures to comply with the Court's decisions regarding the application of safeguard, antidumping and countervailing measures. The decision of the Commission or its individual provisions recognized by the Court do not conform with the Agreement and (or) international agreements of the EAEU, is provided by the Commission in accordance with the contract and (or) international Agreements of the EAEU, through the initiative of the investigating body, review regarding an issue required for the implementation of the decision of the Court.

In conducting a review *mutatis mutandis*, the provisions relating to the investigation are applied.

Deadline for review under this paragraph shall, as a rule, not exceed 9 months.

Commission Decisions taken pursuant to the Court's decision shall enter into force in accordance with the general procedure established by the Agreement.

3. Administrative procedures for the investigation

277. In order to implement this Protocol, the Commission shall adopt the acts on procedures for initiation, conducting, completion and (or) the suspension of the investigation. The acts adopted by the Commission shall not change or contradict the provisions of the Agreement.

APPENDIX

to the Protocol on Application of Safeguard, Antidumping and Countervailing Measures with regard to Third Countries

Regulation on Crediting and Distribution of Special, Antidumping, Countervailing Duties

I. General Provisions

1. This Appendix defines the order of crediting and distribution among member States of the amounts of the special, antidumping and countervailing duties established in accordance with Section IX of the Treaty of the Eurasian Economic Union (hereinafter – Treaty). The indicated procedure of crediting and distribution of the amounts of special, anti-dumping, countervailing duties between member States shall also apply in respect of amounts of fines (percent) accrued on the amount of special, anti-dumping, countervailing duties in the cases and manner provided by the Customs code of the Eurasian Economic Union.

2. Terms used in this Appendix, are applied in the meaning defined by the Protocol on the order of crediting and distribution of the amounts of customs duties (other duties, taxes and fees of equivalent effect), their transfer to the revenues of the budgets of the member States (Annex 5 to the Treaty), Protocol on application of safeguard, antidumping and countervailing measures to third countries (Annex 8 to the Treaty) and the Customs Code of the Eurasian Economic Union.

II. Crediting and Accounting of the Amounts of Special, Antidumping, Countervailing Duties

3. From the date of entry into force of the decision of the Commission on application of safeguard, antidumping, countervailing measure the obligation to pay the

amounts of special, anti-dumping, countervailing duties (except provisional special, provisional anti-dumping, provisional countervailing duties) in respect of goods imported into the customs territory of the EAEU arises from the date of application of the measures subject to crediting, distribution and transfer to the budgets of the member States in the order and according to the standards defined in the Annex 5 to this Treaty taking into account particularities provided by this Regulation.

4. When not credited or incompletely credited to the budget of other member States the amounts of distributed special, antidumping, countervailing duties in a timely and non-arrival of information from competent authority of that member State on the absence of special amounts of anti-dumping, countervailing duties, the provisions in paragraphs 20-28 of the Protocol on the order of crediting and distribution of the amounts of customs duties (other duties, taxes and fees of equivalent effect), their transfer to the revenues of the budgets of the member States (Annex 5 to the Treaty) established for crediting and distribution between member States of the customs import duties.

5. The amounts of special, anti-dumping, countervailing duties are subject to crediting in the national currency to the single account of the authorized body of the member State in which they are payable in accordance with the Customs Code of the Eurasian Economic Union, including the collection of such duties.

6. Special, anti-dumping, countervailing duties are paid by payers to the single account of the authorized body to which they are payable in accordance with the Customs Code of the Eurasian Economic Union, by the individual settlement (payment) documents (instructions).

7. Special, anti-dumping, countervailing duties may not be offset to the payment accounts of other fees, except for crediting debt of the payers on the payment of customs fees and fines (percent) (hereinafter - offset to repay the debt).

8. Taxes and fees, other payments (excluding import duties and export duties on crude oil and certain categories of goods produced from oil (petroleum), exported outside the customs the EAEU) may be offset to the payment accounts of special, antidumping, countervailing duties, received to single account of the authorized body of the member

State in which they are payable in accordance with the Customs Code of the Eurasian Economic Union.

Import duties may be offset to repay the debt of payers to pay special, antidumping, countervailing duties.

9. Authorized bodies separately consider:

income received (refunds, offsets to repay the debt) from the special, antidumping, countervailing duties to a single account of the authorized body;

the amounts distributed from special, antidumping, countervailing duties credited to foreign currency accounts of other member States;

the amounts credited to the budget of the member State revenues from the distribution of that member State's special, antidumping, countervailing duties;

the amounts of special, antidumping, countervailing duties received in the budget of the member State from other member States; the amounts received in the budget of the member States for infringement interest provisions of this Appendix, which caused failure, incomplete and (or) late fulfillment of the undertakings of a member State to transfer funds from distribution of special, anti-dumping, countervailing duties;

the amounts of special, antidumping, countervailing duties, the transfer of which to foreign currency accounts of other member States is suspended.

10. The deposits indicated in paragraph 9 of this Regulation are reported separately in the reporting on budget performance of each member State.

11. Amounts of special, antidumping, countervailing duties received to single account of the authorized body on the last business day of each calendar year of member States are reflected in the performance report of the reporting year.

12. Amounts of distributed special, antidumping, countervailing duties for the last working day of the calendar year of the member State are credited no later than the second working day of the current year of the member State to the budget of the member States and on foreign currency accounts of other member States, as well as reflected in the statement on the financial performance of the reporting year.

13. Revenues from the distribution of the special anti-dumping, countervailing duties received in the budget of the member State from the competent authorities of other

member States, for the last working day of the calendar year of other member States, are reflected in performance report for of the current year.

14. Funds held in a single account of the authorized body, cannot be levied in execution of judicial acts or otherwise, except in cases of debt collection to pay customs fees, special, antidumping and countervailing duties, as well as penalties (percent) in accordance with the Customs Code of the Eurasian Economic Union.

15. Provisional special, provisional antidumping, provisional countervailing duties shall be paid (collected) in the national currency to the account specified by the legislation of the member State customs authorities which are subject to provisional special, provisional antidumping, provisional countervailing duties.

16. In the cases established by Annex No. 8 the amounts of paid (collected) special provisional, provisional anti-dumping, provisional countervailing duties, as well as anti-dumping, countervailing duties paid in the manner prescribed for the levying of appropriate types of provisional duties shall be offset in special anti-dumping, countervailing duties and crediting to the single account of the authorized body of the member State in which they were paid not later than 30 working days from the date of entry into force of the Commission's decision on the application (extension, extension to constituents and (or) goods derivatives) safeguard, anti-dumping, countervailing measures.

In the cases established by Appendix No.8 amounts to secure the payment of antidumping duties shall be offset to anti-dumping duties and credited to the single account of the authorized body of the member State in which they were paid not later than 30 working days from the date of entry into force of the relevant decision of the Commission on the application of anti-dumping measures.

III. Refund of Special, Antidumping, Countervailing duties

17. Refund of amounts of provisional special, provisional antidumping, provisional countervailing duties, as well as anti-dumping, countervailing duties levied in the manner prescribed for the collection, provisional anti-dumping and provisional countervailing duties to the payer is performed in cases defined in Annex 8 to this Agreement, in

accordance with the legislation of the member States in which such duties were paid (recovered), unless otherwise established by the Customs Code of the Eurasian Economic Union, subject to the provisions of this Appendix.

18. Refund of special, antidumping, countervailing duties shall be carried out in accordance with the laws of the member States, unless otherwise provided by Customs Code of the Eurasian Economic Union, subject to the provisions of this Appendix.

19. Refund of amounts of special, antidumping, countervailing duties to the payer, their offset to repay the debt are carried out from a single account of the authorized body in the current day within amounts of special anti-dumping, countervailing duties received on a single account of the authorized body, as well as the special anti-dumping, countervailing duties offset to the account of payment in the reporting day, taking into account the amount of refund of special, antidumping, countervailing duties, unaccepted by the national (central) bank for execution in the reporting day, except for the cases established by paragraph 20 of this Appendix.

20. Refund of the amounts of special, antidumping, countervailing duties to the payer, their offset to repay the debt are carried out from a single account of the authorized body of the Republic of Kazakhstan in the reporting day within amounts of special anti-dumping, countervailing duties received (credited) to the single account of the authorized body of the Republic of Kazakhstan on the day the refund (offset).

21. Determining the amount of refund of special, antidumping, countervailing duties, returnable and (or) offset to repay the debt in the current day is carried out before the distribution of received special, antidumping, countervailing duties between the budgets of the member States.

22. If funds are insufficient for the return of special anti-dumping, countervailing duties and (or) offset to repay the debt in accordance with paragraphs 19-20 of this Appendix, said refund (offset) is carried out by a member State in the following weekdays.

Penalties (interest) for late return to the payer of special, antidumping, countervailing duties shall be paid from the budget of that member State to the payer and are not included in the special, antidumping, countervailing duties.

IV. Exchange of the information between the competent authorities of the member States

23. The exchange of information between the competent authorities required for the implementation of this section shall be carried out in accordance with the decision of the Commission determining the procedure, form and timing of the exchange of information.