

**THE GOVERNMENT**

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**SOCIALIST REPUBLIC OF VIETNAM**

**Independence - Freedom – Happiness**

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*Hanoi, January 15, 2018*

## **DECREE**

### **ON GUIDELINES FOR THE LAW ON FOREIGN TRADE MANAGEMENT ON TRADE REMEDIES**

*Pursuant to the Law on organization of Government dated June 19, 2015;*

*Pursuant to the Law on foreign trade management dated June 12, 2017;*

*At the request of the Minister of Industry and Trade;*

*The Government promulgates the Decree on guidelines for the law on foreign trade management on trade remedies.*

## **Chapter I**

### **GENERAL PROVISIONS**

#### **Article 1. Scope**

This Decree details some articles of the Law on foreign trade management on bases for the conduction, procedures, time limit, contents and bases for the termination of trade remedy investigation; method for determining the injury to domestic industry; taking action against evasion of trade remedies; imposition and review of trade remedies; responsibility for cooperating of relevant authorities during the investigation; exemption from trade remedies; handling of trade remedies imposed on the Vietnamese exports.

#### **Article 2. Regulated entities**

1. Regulatory bodies competent to investigate, apply and handle trade remedies.
2. Vietnamese traders, foreign traders, other domestic and foreign agencies, organizations and individuals relevant to the investigation, appliance and handling of trade remedies.

#### **Article 3. Definitions**

Except for terms specified in the Law on foreign trade management, in this Decree, these terms are construed as follows:

1. Evidence refers to factual things which are used by the authority investigating trade remedies as grounds for determining cases of trade remedies.
2. Requesting party refers to an organization or individual legally representing a domestic industry that submits a request for applying trade remedies and investigating evasion of trade remedies.
3. Requested party refers to a foreign organization or individual producing or exporting goods who is requested to be applied trade remedies and investigated evasion of trade remedies by the requesting party or is investigated by the investigating authority under decisions of the Minister of Industry and Trade.
4. Period of investigation refers to a period of time determined by the investigating authority for collection of information, evidences and data to serve the investigation
5. Investigation phase refers to a period of time for which the investigating authority conducts the investigation from the date the Minister of Industry and Trade decides to investigate until the investigation is completed.
6. “Consultation” means the activity where relevant parties exchange and provide information about the case with the investigating authority in accordance with law provisions.

#### **Article 4. Determination of domestic industry**

1. The determination of domestic industry shall comply with the regulations specified in Clause 1 Article 69 of the Law on foreign trade management.
2. Volume and quantity of produced goods which amount to at least 50% of the total quantity and volume of similar goods or directly competitive products that are produced domestically shall be treated as constituting a major proportion of total domestic production of the domestic industry in accordance with Clause 1 Article 69 of the Law on foreign trade management. The investigating authority may consider a lower proportion if there is evidence that such proportion is enough to constitute a major proportion of total domestic production of the domestic industry.
3. In cases include anti-dumping measure and countervailing measure, producers in a specific geographic market within the Vietnam territory may be treated as a domestic industry is the following conditions are satisfied:
  - a) The producers in such geographic market sell all or almost all goods they can produce in the market;
  - b) The needs of such geographic market are not satisfied considerably by producers of similar domestic goods in other geographic market.

In this case, the investigating authority can still determine the damage even when similar domestic producers in other geographic markets do not suffer damage if the investigating

authority decides that there are dumping or countervailing activities that are only happened in such geographic market and they cause damage to all or almost all producers in such market.

**Article 5. Determination of the relationship between the producers of similar goods and organizations and individuals importing/exporting goods under investigation of trade remedies**

1. The producers of similar goods are considered relevant to organizations and individuals importing/exporting goods under investigation of trade remedies in accordance with Clause 1 Article 69 of the Law on foreign trade management in the following cases:

- a) This party directly or indirectly controls the other party;
  - b) Both parties are directly or indirectly controlled by a third party;
  - c) Both parties directly or indirectly control a third party.
2. A party may be deemed to control another party when that party has the rights to govern the financial and operating policies of the other party.

**Article 6. Return of duty of trade remedy**

1. The return of trade remedies duty shall comply with the regulations specified in Clause 5 and 6 Article 68 of the Law on foreign trade management.

2. The duty rates of trade remedies returned in accordance with Clause 1 this Article shall be interest-free.

3. Procedures for return of duty of a trade remedy shall be carried out similarly to the procedures for refund of overpaid import tax in accordance with law provisions on tax management.

**Article 7. Exemption from trade remedies**

1. The Ministry of Industry and Trade shall review and exempt trade remedies through exemption applied to a number of goods on the principle that it does not affect the overall effectiveness of trade remedies.

2. Organizations and individuals shall submit an application for exemption of trade remedies (hereinafter referred to as exemption dossier) using the form promulgated by the investigating authority to the Ministry of Industry and Trade for reviewing and exempting trade remedies.

3. Within 07 working days from the receipt of the exemption dossier, the investigating authority shall notify the organization/individual on the adequacy and validity of the exemption dossier. If the exemption dossier is not adequate or valid, the investigating authority shall request the supplementation from the organization/individual.

4. Within 45 days from the receipt of the satisfactory exemption dossier, the Ministry of Industry and Trade shall review and exempt trade remedies. If the dossier is rejected, the investigating shall send the organization/individual a written notification containing the explanation.

5. If the organization or individual exempted from trade remedies does not comply with the regulations and conditions for exemption, the Ministry of Industry and Trade may revoke the decision on exemption of trade remedies and notify the customs authority in accordance with law provisions.

6. The Minister of Industry and Trade shall provide specific guidance on cases exempted from trade remedies.

### **Article 8. Management of imports subject to investigation of trade remedies**

1. From the date on which the decision on investigation is issued to the end date of the trade remedy investigation, the Ministry of Industry and Trade may apply the import declaration regulations to goods subject to investigation of trade remedies for investigation. The declaration of import is not limited in quantity, volume or value of imported goods.

2. The dossier for declaration of import includes:

a) Written declaration of import: 01 copy using the form promulgated by the investigating authority;

b) Commercial voucher: 01 certified true copy;

c) Certificate of quality or equivalent documents promulgated by the producer: 01 certified true copy.

3. Within 02 working days from the receipt of the dossier for declaration of import, the investigating authority shall notify the organization/individual on the adequacy and validity of the exemption dossier. If the dossier for declaration of import is not adequate or valid, the investigating authority shall request the supplementation from the organization/individual.

4. Within 03 working days from the receipt of the satisfactory dossier for declaration of import, the investigating authority shall send a written confirmation on the declaration of import to the address mentioned in the application by post.

5. The customs authority shall cooperate with the Ministry of Industry and Trade in supervising the implementation of the import declaration regulation applied to goods subject to investigation.

### **Article 9. Rights and obligations of related parties in a trade remedy case**

1. The requesting party and the requested party shall have the following rights:

- a) Access information provided by other relevant parties to the investigating authority, except for confidential information as prescribed in Article 11 hereof;
- b) Send opinions on draft preliminary conclusion, final conclusion, review conclusion and conclusion of investigation against evasion of trade remedies within 07 days since the date on which the investigating authority send the draft for opinions;
- c) Recommend the investigating authority to extend the time limit for providing information, the time limit for responding to the questionnaire;
- d) Request for confidentiality of information as prescribed in Article 11 hereof;
- dd) Participate in the public hearing and present viewpoints, provide evidences and documents related to the trade remedy case;
- e) Authorize other party on his/her behalf to participate in the resolution process of the trade remedy case;
- g) Request the investing authority to organize a separate hearing as prescribed in Clause 1 Article 13 hereof;
- h) Complaint or file a lawsuit about decisions of the Minister of Industry and Trade according to law provisions on complaints and lawsuits of Vietnam.

2. The requesting party and the requested party shall have the following obligations:

- a) Provide sufficiently, truthfully, accurately and promptly the necessary evidences, information and documents relating to his/her request;
- b) Provide sufficiently, truthfully, accurately and promptly the necessary evidences, information and documents as requested by the investigating authority;
- c) Execute decisions of the Minister of Industry and Trade.

3. Relevant parties as prescribed in Article 74 of the Law on foreign trade management are other than the requesting party or the requested party shall have the following rights and obligations:

- a) Provide truthful information and necessary documents relating to the trade remedy case according to his/her viewpoints or at the request of the investing authority;
- b) Request for confidentiality of information as prescribed in Article 11 hereof;
- c) Access information about the trade remedy case of the investing authority, except for confidential information as prescribed in Article 11 hereof;

d) Participate in the public hearing and present viewpoints, provide evidences and documents related to the trade remedy case.

4. Relevant parties shall not pay fees for participating in handling of trade remedy case regarding imports to Vietnam.

#### **Article 10. Regulations on the non-cooperation of related parties in a trade remedy case**

1. If a relevant party refuses to participate in the case, does not provide necessary evidences or significantly disturbs the completion of the investigation, the preliminary conclusion and final conclusion regarding such relevant party shall be based on available information.

2. If a relevant party provide false or misleading evidences, such evidences shall not be reviewed and the preliminary conclusion and final conclusion regarding such relevant party shall be based on available information.

3. Non-cooperating relevant parties specified in Clause 1 and 2 this Article shall not be exempted from trade remedies as prescribed in Article 7 hereof.

#### **Article 11. Confidentiality of information**

1. The investigating authority shall public non-confidential information relevant to the trade remedy case. The publication of information shall be carried out in an electronic method or other methods that are in accordance with the infrastructure of the investing authority.

2. The investing authority shall keep the information provided by relevant parties confidential, including:

a) National secrets and other secret in accordance with law provisions;

b) The information classified as confidential by the supplier and accepted by the investigating authority.

3. Information provided by a relevant party must be made into 02 copies which comprise 01 copy containing public information and 01 copy containing confidential information. Regarding the confidential information, the relevant party must attach a detailed explanation of the request for confidentiality of information and a summary of the contents of the confidential information that may be disclosed to other relevant parties.

4. In case the investigating authority refuses the information supplier's request for confidentiality of information or where the supplier refuses to provide a summary of the confidential information as specified in Clause 3 this Article, the investing authority shall not use such information.

5. Before the Minister of Industry and Trade decides to investigate, the investing authority shall restrict disclosure of information about the case.

## **Article 12. Site investigation**

1. The investigating authority may conduct site investigation to confirm the adequacy, accuracy and truthfulness of the evidences and information provided by the relevant party.
2. The investing authority may only conduct site investigation if it is consented by the relevant party who are requested to be on-site investigated.
3. The investing authority must send a notification and contents of the investigation request to the relevant party who are requested to be on-site investigated before the site investigation.
4. In case the site investigation is conducted oversea, the investing authority shall notify the Government of the country of the enterprise which is investigated on-site.

## **Article 13. Consultation**

1. During the investigation of the imposition of trade remedies, review of trade remedies and taking action against evasion of trade remedies, the investing authority may consult separately with a relevant party according to the written request of such party provided that such consultation shall not affect the time limit for investigation and review of the case.
2. Before the end of the investigation, the investing authority shall organize a public consultation with relevant parties. The investing authority shall notify the organization of the public consultation to relevant parties at least 30 days before the consultation.
3. At least 07 days before the organization of the public consultation, the relevant parties shall register to participate in the consultation to the investing authority, in which they may include a document on the issues that need to be consulted with arguments. Relevant parties are exempted from the consultation participation fee.
4. Within 07 days from the organization of the public consultation, the relevant parties shall send a written document on the contents presented at the consultation to the investing authority.
5. Within 15 days from the organization of the public consultation as specified in Clause 2 this Article, the investing authority shall publish the consultation record to relevant parties.

## **Article 14. Provision of information of regulatory bodies and trade associations of Vietnam**

1. The customs authorities of Vietnam, within their authorities and functions, shall:
  - a) Provide data and information of goods under consideration imported to Vietnam at the request of the investing authority in a timely and adequate manner;
  - b) Cooperate with the investing authority in providing anonymous data and information about the quantity and quality of imports and exports related to the investigation, imposition and handling of trade remedies at the request of the enterprise and trade associations. The procedures,

costs and cases of refusal to provide information and other contents shall comply with the Law on access to information.

2. From the effective date of the decision on imposition of trade remedies, the customs authority shall provide information on trade remedy duties, quantity and quality of imports under trade remedies at the request of the investing authority.

3. Trade associations and the Vietnam Chamber of Commerce and Industry shall, within their functions and authorities, cooperate with the investing authority in providing information and data on imports and exports, production and trade of goods within their competence at the request of the investing authority.

### **Article 15. Imposition of trade remedies applied to underdeveloped and developing countries/territories**

1. The imposition of trade remedies applied to goods of an underdeveloped/developing country or territory shall comply with Clause 2 and 3 of Article 86 and Clause 2 Article 92 of the Law on foreign trade management.

2. The list of underdeveloped/developing countries shall be determined by the investing authority based on a reliable database.

## **Chapter II**

### **INVESTIGATION AND IMPOSITION OF ANTI-DUMPING MEASURE AND COUNTERVAILING MEASURE**

#### **Section 1. ANTI-DUMPING AND COUNTERVAILING**

##### **Mini section 1. ANTI-DUMPING**

#### **Article 16. Method of determining the normal price**

1. In case a similar good is sold in the domestic market of the exporting country in a significant volume, normal price is the comparable price of the similar good sold in the domestic market of the exporting country under common commercial conditions prescribed in Article 17 hereof.

2. In the absence of similar goods sold on the domestic market of the exporting country or in case the sale in that country does not allow for a fair comparison due to the special conditions of that market or the similar goods are sold on the domestic market of the exporting country with an insignificant volume, the normal price shall be determined in one of the following methods:

a) The export price of similar goods to an appropriate third country if the export price is representative;



b) The price established by the investing authority according to the reasonable price of such good plus other reasonable costs and reasonable profits based on each stage from production to circulation on the market of the exporting country or a third country.

3. Volume and quantity of similar goods sold on the domestic market of the exporting country specified in Clause 1 of this Article shall be treated as significant if it amounts to at least 5% of the total quantity and volume of goods under consideration exported to Vietnam. The investigating authority may consider a lower proportion if there is evidence that such proportion is large enough to carry out a reasonable comparison.

#### **Article 17. Common commercial conditions**

A similar good is considered being sold in the domestic market of the exporting country under common commercial conditions except for the following cases:

1. Sales transaction of similar goods on the domestic market of the exporting country, or the export transaction to a third country in which their sales price is lower than the production cost in at least 6 months and their quantity and number are lower than 20% of the total quantity and number of goods sold domestically or exported to a third country;

2. Sales transaction of similar goods on the domestic market of the exporting country, or the export transaction to a third country which are done between parties having relationships as prescribed in Article 5 hereof and the sales prices between those parties do not reflect the market price;

3. Sales transaction of similar goods on the domestic market of the exporting country or the export transaction to a third country shall be implemented according to agreements on netting.

#### **Article 18. Method of determining the export price**

1. Export price refers to the sales price of the goods under consideration exported to Vietnam according to legal transaction vouchers.

2. In the absence of export price or there are evidences proving that the export price is unreliable, the investigating authority shall determine the export price in one of the following methods:

a) The export price is established based on the price resold to the first independent customer. The first independent customer refers to a customer that has no relationship with the concerned producer and exporter specified in Article 5 this Decree;

b) The export price is established built on other reasonable bases.

3. The export price shall be treated as unreliable as specified in Clause 2 this Article if the producer, exporter, importer or a third party having relationships as prescribed in Article 5 hereof or having agreements on netting.

## **Article 19. Adjustment of normal price and export price**

When determining the dumping margin, the investigating authority shall consider the following adjustments:

1. Adjust normal price and export price to the same stage in the goods circulation process;
2. Adjust normal price and export price to the same calculation time or at the nearest calculation times;
3. Adjust normal price and export price when there are differences in tax, sale terms, commercial levels, volume, physical characteristics and other factors which the investigating authority deems appropriate;
4. When exchanging currencies, the investigating authority shall use the exchange rate at the time of goods sold, unless the exchange rate in the import sale transaction under forward contract is the exchange rate specified in such contract. In the event of exchange rate fluctuation, the investigating authority shall adjust the fluctuation to an appropriate exchange rate in the period of investigation;
5. Other adjustments deemed appropriate by the investigating authority.

## **Article 20. Method of determining the dumping margin**

1. The dumping margin is determined according to the difference between the normal price and the export price as prescribed in Article 16, 17, 18 and 19 of this Decree.
2. The dumping margin shall be determined according to one of the following methods:
  - a) Compare the weighted average of the normal price with the weighted average of the export price;
  - b) Compare the normal price with the export price on the basis of each transaction;
  - c) Compare the weighted average of the normal price with the weighted average of the export price on the basis of each transaction if there are significant differences in the export price between buyers, geographical areas and export time.
3. The investigating authority shall determine a particular dumping margin for each foreign producer and exporter in the anti-dumping investigation, except for cases specified in Clause 4 this Article.
4. In case the quantity of the requested parties is too large or the category of goods subject to investigation is too large, the investigating authority may limit the scope of investigation by the sampling method specified in Article 36 hereof to determine the dumping margin.

5. In case the investigating authority limits the scope of investigation in accordance with Clause 4 this Article, the dumping margin shall be applied as follows:

a) The particular dumping margin applied to goods under consideration of each producer and exporter from which the sample is drawn and cooperating with the investigating authority in the investigation phase;

b) The particular dumping margin applied to goods under consideration of each producer and exporter from which the sample is drawn but not cooperating or cooperating inadequately with the investigating authority in the investigation phase;

c) The particular dumping margin applied to goods under consideration of each producer and exporter from which the sample is not drawn but voluntarily participating and cooperating with the investigating authority in the investigation phase;

d) The particular dumping margin applied to goods under consideration of the remaining producers and exporters.

## **Mini section 2. COUNTERVAILING**

### **Article 21. The particularity of subsidies**

1. A subsidy specified in Article 84 of the Law on foreign trade management shall be treated as particular when such subsidy is applied to a particular organization, individual or production sector, or such subsidy is applied only to the organizations, individuals or production sectors in a particular geographical area of the country under the countervailing measure investigation.

2. The particularity of subsidies shall be determined as follows:

a) There is a clear restriction for one or a group of organizations/individuals, or for one or a certain group of production sectors to receive subsidies;

b) The objective criteria and conditions for receiving subsidies which are defined in legal documents but not automatically applied in practice;

c) There is a clear restriction for organizations or individuals in a particular geographical area;

d) In case the subsidy is not particular as specified in Point a, b and c this Clause, the investigating authority may still determine its particularity based on reviewing factors including the limited number of subsidized enterprises, the disproportionate allocation of subsidies and the way the authorities provide subsidies.

3. The subsidies in accordance with Clause 1 and 2 Article 85 of the Law on foreign trade management shall be considered particular subsidies.

### **Article 22. Method of determining the subsidy value**

1. Method of determining the subsidy value is regulated as follows:

a) In case the subsidy is a nonrefundable allocation, the subsidy value shall be calculated on the basis of the actual value of the allocation granted to the subsidized organizations/individuals;

b) In case the subsidy is granted in the form of a loan provided by the Government or public sectors, the subsidy value shall be calculated on the basis of the difference between the payable interest rate applicable to such loan under market conditions and the interest rate actually paid by the organization/individual;

c) In case the subsidy is granted in the form of loan guarantee provided by the Government or public sectors, the subsidy value shall be calculated on the basis of the difference between the payable interest rate applicable to non-guaranteed loan and the actual interest rate applicable to guaranteed loans;

d) In case the subsidy is granted in the form of share transfer or direct capital transfer by the Government or public sectors, the subsidy value shall be calculated on the basis of the capital amount actually received by the enterprise;

dd) In case the subsidy is granted in the form under which the Government or public sector purchase goods/services at prices higher than the market price for the organization/individual, the subsidy value shall be calculated on the basis of the difference between the market prices and the actual prices paid by the Government or public sectors for such goods/services;

e) In case the subsidy is granted in the form under which the Government or public sector provide goods/services at prices lower than the market price to the organization/individual, the subsidy value shall be calculated on the basis of the difference between the market prices and the sale prices of the Government or public sectors to the organization/individual;

g) In case the subsidy is granted in the form under which the Government or public sectors ignore or not collect the payables of the organization/individual, the subsidy value shall be calculated on the basis of the difference between the amount payable in accordance with law provisions and the amount actually paid by the organization/individual.

2. The value of subsidy granted in other forms shall be calculated in an equitable, reasonable manner and not contrary to international practices.

## **Article 2. Determination of damage to the domestic industry**

### **Article 23. Determination of significant damage to the domestic industry**

1. The determination of significant damage to the domestic industry must be carried out according to the following factors:

a) The absolute or relative increase of the volume and quantity of goods dumped and subsidized for import into Vietnam as compared to the volume and the quantity of similar goods domestically produced or consumed;

b) Price depression and price suppression of goods under consideration imported to Vietnam regarding the sale price of similar goods domestically produced;

c) The impact of the dumped or subsidized goods on the status of production and business activities of the domestic industry, including actual decline, potential decline of revenue, sales volume, profit, quantity, market share, capacity, productivity, investment; factors affecting the domestic sale price; the magnitude of the dumping margin, the level of subsidy; actual and potential adverse impacts on cash flow, inventory, labor, wages and capacity of raising fund;

d) Other factors.

2. The determination of significant damage to the domestic industry must be carried out according to specific evidences.

#### **Article 24. Determination of threat to cause significant damages to the domestic industry**

1. The determination of threat to cause significant damages to the domestic industry must be carried out according to the following factors:

a) The absolute or relative increase of the volume and quantity of goods dumped and subsidized for import into Vietnam as compared to the volume and the quantity of similar goods domestically produced or consumed;

b) The production capacity of the foreign producer or exporter is large enough or may increase significantly in the near future, leading to a significant increase in the volume and quantity of goods under consideration imported into Vietnam;

c) The dumped or subsidized imports to Vietnam significantly reduce prices, or adjust prices to stay at a significant level, or prevent substantial increases in the selling price of similar domestic goods, resulting in the increase in demand for imported goods;

d) Inventory data of goods under consideration;

dd) Other factors.

2. The review of the factors specified in Clause 1 of this Article shows the actual possibility of increasing the import of dumped and subsidized goods and if no anti-dumping or countervailing measures are applied, significant damages will occur.

3. The determination of threat to cause significant damages to the domestic industry must be carried out according to specific evidences.

## **Article 25. Determination of significant obstruction to the establishment of the domestic industry**

1. The determination of establishment of the domestic industry shall be carried out according to the following factors:

- a) Characteristics of the domestic industry;
- b) Operation period of the domestic industry;
- b) Business scale of the domestic industry comparing to the whole market;
- d) Reasonable financial break-even point of the domestic industry;
- dd) The manufacturing industry being considered a new manufacturing industry or an expansion of the existing manufacturing chain;
- e) Other factors deemed appropriate by the investigating authority.

2. The determination of significant obstruction to the establishment of the domestic industry specified in Clause 1 this Article shall be carried out according to the following factors:

- a) Plan of the domestic industry;
- b) Production capacity and yield;
- c) Quantity and volume of goods sold domestically;
- d) Market share, revenue, profit;
- dd) Sales prices of similar domestic goods;
- e) Exportation of similar goods and import of goods under investigation;
- g) Inventory;
- h) Labor and wages;
- i) Other factors deemed appropriate by the investigating authority.

3. The determination of significant obstruction to the establishment of the domestic industry must be carried out according to specific evidences.

## **Article 26. Principles of aggregate review**

1. In case the goods under consideration are imported from two or more producing/exporting countries, the investigating authority may determine the aggregated damage to the goods under consideration.

2. The aggregate review of effect of goods under consideration must consider the competition conditions between the goods under consideration and the competition conditions between the goods under consideration and similar goods domestically produced.

3. The aggregate review specified in Clause 1 this Article does not include the countries with dumping margin and level of subsidies specified in Clause 2, 3 Article 78 and Clause 2, 3 Article 86 of the Law on foreign trade management.

### **Article 27. Determination of the causal relationship between dumped/subsidized imports and the damage to domestic industry**

When determining the causal relationship between dumping on imports/import subsidies and the significant damage, threat to cause significant damage to domestic industry or significant obstruction to the establishment of a domestic industry, the investigating authority shall review the following contents:

1. The dumping on imports/import subsidies cause significant damage, threat to cause significant damage to domestic industry or significant obstruction to the establishment of a domestic industry.

2. Factors other than the dumping on imports/import subsidies which cause or may cause significant damage or significant obstruction to the establishment of a domestic industry shall not be considered as an effect cause by the dumped or subsidized goods, including:

a) The volume and quantity of similar goods imported into Vietnam which are not dumped or subsidized;

b) The decline in consumer demand or the change in the form of consumption of similar goods domestically produced;

c) Trade restriction policy;

d) The development of technology;

dd) Exportability and productivity of the domestic industry;

e) Other factors deemed appropriate by the investigating authority.

## **Section 3. INVESTIGATION OF ANTI-DUMPING AND COUNTERVAILING**

### **Article 28. Application for imposition of anti-dumping measure**

1. The application for imposition of anti-dumping measure includes a written request for imposition of anti-dumping measure and related documents.

2. The written request for imposition of anti-dumping measure includes the following contents:

a) Name, address and other necessary information of the organization/individual representing the domestic industry;

b) Information, data and evidences for determining the representative of the domestic industry, including list of domestic organizations and individuals producing similar goods; volume and quantity of similar goods produced by the above organizations and individuals;

c) Names and addresses of organizations and individuals producing similar goods supporting or opposing the case;

d) Description of the imports subject to investigation of imposition of anti-dumping measures, including scientific names, trade names, common names; ingredient; basic physical and chemical characteristics; production process; main purpose; Vietnam and international standards/regulations; codes of goods in accordance with the List of Imports and Exports of Vietnam and the effective import tax rates applied according to the export tariffs and import tariffs in each period;

dd) Description of similar goods of the domestic industry, including scientific names, trade names, common names; basic physical and chemical characteristics; main purpose; Vietnam and international standards/regulations;

e) Information on the volume, quantity and value of the imports specified in Point d of this Clause within 12 months prior to the submission of dossiers;

g) Information on the volume, quantity and value of similar goods of the domestic industry specified in Point dd of this Clause within 12 months prior to the submission of dossiers; except where the domestic industry operates less than 12 months;

h) Information on the normal price and export price of the described goods in accordance with Point d this Clause; dumping margin of the imports subject to investigation of anti-dumping measures;

i) Information, data and evidences on significant damage, threat to cause significant damage to domestic industry or significant obstruction to the establishment of a domestic industry;

k) Information, data and evidences on the causal relationship between the import of goods specified in Clause d this Point and the damage to domestic industry significant damage, threat to cause significant damage to domestic industry or significant obstruction to the establishment of a domestic industry;



l) Information on the exporting country or the origin of goods subject to investigation of anti-dumping measures, including a specific list of foreign producers, exporters and importers;

m) Specific requirements on the imposition of anti-dumping measures, the duration and the extent of imposition.

## **Article 29. Application for imposition of countervailing measure**

1. The application for imposition of countervailing measure includes a written request for imposition of countervailing measure and related documents.

2. The written request for imposition of countervailing measures includes the following contents:

a) Name, address and other necessary information of the organization/individual representing the domestic industry;

b) Information, data and evidences for determining the representative of the domestic industry, including list of domestic organizations and individuals producing similar goods; volume and quantity of similar goods produced by the above organizations and individuals;

c) Names and addresses of organizations and individuals producing similar goods supporting or opposing the case;

d) Description of the imports subject to investigation of imposition of countervailing measures, including scientific names, trade names, common names; ingredient; basic physical and chemical characteristics; production process; main purpose; Vietnam and international standards/regulations; codes of goods in accordance with the List of Imports and Exports of Vietnam and the effective import tax rates applied according to the export tariffs and import tariffs in each period;

dd) Description of similar goods of the domestic industry, including scientific names, trade names, common names; ingredient; basic physical and chemical characteristics; main purpose; Vietnam and international standards/regulations;

e) Information on the volume, quantity and value of the imports specified in Point d of this Clause within 12 months prior to the submission of dossiers;

g) Information on the volume, quantity and value of similar goods of the domestic industry specified in Point dd of this Clause within 12 months prior to the submission of dossiers; except where the domestic industry operates less than 12 months;

h) Information and evidences of foreign subsidies, including the existence of subsidies; the allegedly subsidizing country; name and address of the foreign organization or individual accused of receiving the subsidies; form and policy of subsidy; quantity, volume and value of the subsidy;

i) Information, data and evidences on significant damage, threat to cause significant damage to domestic industry or significant obstruction to the establishment of a domestic industry;

k) Information, data and evidences on the causal relationship between the import of goods specified in Clause d this Point and the damage to domestic industry significant damage, threat to cause significant damage to domestic industry or significant obstruction to the establishment of a domestic industry;

l) Specific requirements on the imposition of countervailing measures, the duration and the extent of imposition.

### **Article 30. Receipt of application for imposition of anti-dumping measure/countervailing measure**

1. Within 15 days from the receipt of the application for imposition of anti-dumping measures/countervailing measures (hereinafter referred to as application), the investigating authority shall notify the organization/individual on the adequacy and validity of the application. If the application is not adequate or valid, the investigating authority shall request supplementation from the organization/individual.

2. The time limit for supplementation of the application is decided by the investigating authority but not lower than 30 days from the notification of supplementation.

### **Article 31. Verification of application for imposition of anti-dumping measure/countervailing measure**

1. The verification of the application and issuance of decision on investigation shall comply with Clause 2 Article 70 of the Law on foreign trade management.

2. Contents of the verification of application include:

a) Determine the legal representative status of a domestic industry of the organization or individual submitting the application as provided for in Clause 2 of Article 79 and Clause 2 of Article 87 of the Law on foreign trade management.

b) Determine evidences of the dumping on goods/good subsidies imported to Vietnam which causes significant damage, threat to cause significant damage to domestic industry or significant obstruction to the establishment of a domestic industry.

### **Article 32. Decision on the investigation for imposition of anti-dumping measure and countervailing measure**

The decision of the Minister of Industry and Trade on anti-dumping and countervailing investigation shall include the following contents:

1. Specific description of the goods under consideration, codes of goods in accordance with the List of Imports and Exports of Vietnam and the effective import tax rates applied according to the export tariffs and import tariffs in each period;
2. Information on organizations and individuals producing similar goods subject to imposition of anti-dumping measure/countervailing measure;
3. Summary of the information on the dumping on goods/good subsidies imported to Vietnam which causes significant damage, threat to cause significant damage to domestic industry or significant obstruction to the establishment of a domestic industry;
4. Procedures of the anti-dumping and countervailing investigation.

**Article 33. Preparation of application for imposition of anti-dumping measure/countervailing measure in the absence of requesting party**

1. If no one requests for investigation but there are clear evidences of the dumping on goods/good subsidies imported to Vietnam which causes or may causes significant damage to domestic industry, the investigating authority shall prepare an application for imposition of anti-dumping measures/countervailing measures and submit it to the Minister of Industry and Trade for reviewing and deciding the investigation.
2. The application prepared by the investigating authority must ensure the contents specified in Article 28 and 29 hereof (Except for Point a, b and c Clause 2).
3. Relevant organizations and individuals must cooperate and provide necessary information at the request of the Ministry of Industry and Trade.

**Article 34. Period of investigation**

1. The period of anti-dumping and countervailing investigation is 12 months. In special cases, the investigating body may determine another investigation period but not less than 06 months.
2. The investigation period for determining damage is at least 03 years and it must cover the whole period of anti-dumping and countervailing investigation. In case the related party has less than 3 years of operation, the data collected will be the entire operation duration of such related party up to the time the decision is made.

**Article 35. Investigation questionnaire**

1. Within 15 days after the issuance of the investigation decision of the Minister of Industry and Trade, the investigating authority shall send the investigation questionnaire to the following subjects:
  - a) Producers of similar domestic goods;

b) Foreign producers and exporters exporting goods subject to anti-dumping and countervailing investigation into Vietnam which the investigating authority knows;

c) The representative in Vietnam of the government of the country producing and exporting goods subject to anti-dumping and countervailing investigations;

d) Importers of goods subject to anti-dumping and countervailing investigations;

dd) Other related parties.

2. Within 30 days after receiving the investigation questionnaires, the concerned parties must provide written replies to all questions in the questionnaire. In case of necessity or there are written requests for extension with reasonable reasons from the concerned parties, the investigating authority may extend the time limit but not more than 30 days.

3. The investigation questionnaires shall be considered having reached the recipients after 07 days from the date on which they were sent by the investigating authority. The sending date shall be determined according to the postmark.

#### **Article 36. Sampling**

1. In case the quantity of foreign producers and exporters, domestic importers and producers is too large or the category of goods subject to anti-dumping measures/countervailing measures is too large, the investigating authority may limit the scope of investigation.

2. The limitation of the scope of investigation must comply with the following regulations:

a) The scope of investigation shall be limited by the method of selecting appropriate statistical samples on the basis of the volume and quantity of goods subject to anti-dumping or countervailing measures produced or exported into Vietnam by the requested party or the information obtained by the investigating authority at the time of sampling;

b) When selecting sample, the investigating authority may consult with the requested party, the importers involved in the sampling and receive consent of the requested party on the sampling.

#### **Section 4. IMPOSITION OF ANTI-DUMPING MEASURE AND COUNTERVAILING MEASURE**

##### **Article 37. Imposition of temporary anti-dumping tax and countervailing tax**

1. The imposition of temporary anti-dumping tax, countervailing tax, tax rate, the tax imposition time limit and the extension of the tax imposition time limit shall comply with the regulations specified in Clause 1 Article 81 and Clause 1 Article 89 of the Law on foreign trade management.

2. The decision on imposition of temporary anti-dumping tax and countervailing tax includes the following contents:

a) Description of the imports subject to imposition of anti-dumping tax and countervailing tax, including names, basic characteristics and main purpose, codes of goods in accordance with the List of Imports and Exports of Vietnam and the effective import tax rates applied according to current export tariff and import tariff;

b) Names, addresses and other necessary information of producers and exporters of goods subject to imposition of temporary anti-dumping and countervailing tax;

c) Name of the country producing and exporting goods subject to imposition of anti-dumping tax and countervailing tax;

d) Temporary anti-dumping tax and countervailing tax rates;

dd) Effective date and duration of the imposition of temporary anti-dumping tax and countervailing tax;

e) Procedures and dossiers for examination and imposition of temporary anti-dumping tax and countervailing tax.

3. The temporary anti-dumping tax and countervailing tax shall be imposed after 60 days since the issuance of the decision on investigation of the Minister of Industry and Trade.

4. In case the temporary anti-dumping tax, countervailing tax are imposed at a lower rate compared to the dumping margin/level of subsidies in the preliminary conclusion or in case the exporting organizations and individuals of goods under consideration imported into Vietnam request for extension of the imposition of temporary anti-dumping tax, countervailing tax and the volume and quantity of goods under consideration of the requesting exporters account for a considerable proportion of the total volume and quantity of goods under consideration imported into Vietnam, The Minister of Industry and Trade may extend the period of imposition of temporary anti-dumping tax and countervailing tax, but the extension shall not exceed 60 days.

### **Article 38. Imposition of commitment measures in the anti-dumping and countervailing investigation**

1. After the Minister of Industry and Trade issues the decision on imposition of temporary anti-dumping tax and countervailing tax and within 30 days before the end of the investigation phase, the producers and exporters of goods under consideration or the Government of the requested party in case of countervailing investigation (hereinafter referred as 'requesting party') may send written commitments to eliminate dumping and subsidies) (hereinafter referred to as 'commitment') to the investigating authority.

2. The commitment includes the following contents:

- a) Scope of goods;
- b) Reference prices include self-determined prices, price increases and price adjustment options;
- c) Periodic notification obligation;
- d) Obligation to cooperate with the investigating authority in the implementation of the commitments;
- dd) Other contents deemed appropriate by the investigating authority.

3. Within 30 days after the receipt of the commitments, the investigating authority shall review and report to the Minister of Industry and Trade for decision.

4. The commitment shall be considered on the following basis:

- a) Whether the imposition of the commitments can overcome the significant damage, threat to cause significant damage to domestic industry or significant obstruction to the establishment of a domestic industry;
- b) Whether the existing management mechanism can effectively monitor the implementation of commitments;
- c) Ability to evade anti-dumping, countervailing measures through commitments;
- d) Other factors deemed appropriate by the investigating authority.

5. The investigating authority shall only review the commitments of the requesting parties who have sufficiently cooperated during the investigation period. During the review of the commitments, the investigating authority may request for adjustment of the commitments. If the requesting party agrees to adjust the commitment, the requesting party must send the adjusted commitment to the investigating authority.

6. The investigating authority shall public the commitments to involved parties. The involved parties may submit written opinions within the time limit specified in the notice. If the commitment contains confidential information, the requesting party shall implement security as prescribed in Article 11 hereof.

### **Article 39. Decision on the commitment to eliminate dumping and subsidies**

1. Based on reports of the investigating authority, the Minister of Industry and Trade shall issue a decision on accepting or rejecting the commitment of the requesting party. If the commitment is rejected, reasons must be included.

2. The decisions specified in Clause 1 this Article must be published to involved parties by appropriate methods.

3. After the issuance of the decisions specified in Clause 1 this Article, the investigating authority shall continue the investigation and issue the final conclusion as follows:

a) In case the final conclusion of the investigating authority determines that there is no dumping or subsidy or no significant damage, threat to cause significant damage to domestic industry or significant obstruction to the establishment of a domestic industry, the Minister of Industry and Trade shall issue a decision on termination of the case and the implementation of the commitment;

b) In case the final conclusion of the investigating authority determines that there is dumping or subsidy or no significant damage, threat to cause significant damage to domestic industry or significant obstruction to the establishment of a domestic industry, the commitment shall continue to be implemented according to the provisions of the commitment.

#### **Article 40. Monitoring the implementation of commitments**

1. When the commitment is approved, the requesting party shall be monitored by the investigating authority in the implementation of the commitment.

2. The investigating authority shall monitor the implementation of commitments as follows:

a) Request the requesting party to periodically provide information and documents related to the implementation of the commitment and prove the accuracy of such information and documents;

b) Periodically compare the information provided by the requesting party on quantity, volume and prices of goods subject to the commitment imported to Vietnam with the information provided by the customs authority;

c) Conduct site investigation to the requesting party if necessary;

d) Check the information with the importers of the requesting party;

dd) Other forms deemed appropriate by the investigating authority.

#### **Article 41. Violation of the implementation of commitments**

The implementation of commitment shall be considered to have committed violation in the following cases:

1. The requesting party imports goods under consideration into Vietnam at a price lower than committed;

2. The requesting party does not periodically provide information on the implementation of commitment as specified in the commitment;

3. The requesting party does not cooperate with the investigating authority in the verification and site investigation of the information provided periodically by the requesting party;
4. The information and data on the implementation of commitment provided by the requesting party are not accurate;
5. The requesting party evades the applied anti-dumping and countervailing measures;
6. The requesting party arbitrarily canceled the commitment but did not inform the investigating authority as prescribed in Clause 3 Article 42 hereof;
7. Other cases determined by the investigating authority.

#### **Article 42. Cancellation of the implementation of commitments**

The commitment is cancelled in the following cases:

1. The requesting party committed violations as prescribed in Article 41 hereof;
2. The investigating authority requests for cancellation of commitment implementation;
3. The requesting party requests for cancellation of commitment. The request may request the cancellation of the commitment at any time during the effective period of the commitment provided that the cancellation must be notified to the investigating authority at least 30 days before the cancellation.

#### **Article 43. Imposition of anti-dumping and countervailing measures after the cancellation of commitment implementation**

1. If the cancellation of commitment implementation complies with the regulations specified in Clause 1 Article 42 of this Decree, the Minister of Industry and Trade may apply the official anti-dumping and countervailing measures based on information available and retroactively applied to the goods of the requesting party committing violations.
2. If the cancellation of commitment implementation complies with the regulations specified in Clause 2 and 3 Article 42 of this Decree, the imposition of anti-dumping and countervailing measures shall be implemented as follows:
  - a) If the cancellation of commitment implementation is carried out during the effective period of the imposition of temporary anti-dumping and countervailing measures, the Minister of Industry and Trade shall cancel the commitment implementation and notify the customs authority to impose the temporary anti-dumping and countervailing measures based on preliminary conclusions.
  - b) If the cancellation of commitment implementation is carried out during the effective period of the imposition of official anti-dumping and countervailing measures, the Minister of Industry



and Trade shall cancel the commitment implementation and notify the customs authority to impose the official anti-dumping and countervailing measures based on final conclusions.

#### **Article 44. Imposition of official anti-dumping measure and countervailing measure**

1. Within 15 days from the day on which the investigating authority send the final conclusion to the Minister of Industry and Trade, the Minister of Industry and Trade shall issue a decision on the case.

2. The decision on imposition of official anti-dumping measures and countervailing measures includes the following contents:

a) Description of the imports subject to imposition of countervailing measures and anti-dumping measures, including scientific names, trade names, common names; ingredient; basic physical and chemical characteristics; production process; main purpose; Vietnam and international standards/regulations; codes of goods in accordance with the List of Imports and Exports of Vietnam and the effective import tax rates applied according to the export tariffs and import tariffs in each period;

b) Names, addresses and other necessary information of producers and exporters of goods subject to imposition of official anti-dumping and countervailing measures;

c) Name of the country producing and exporting goods subject to imposition of official anti-dumping measures and countervailing measures;

d) The investigation conclusions suggesting the need to impose the official anti-dumping measure and countervailing measure;

dd) Specific official anti-dumping measures and countervailing measures;

e) Effective date and duration of imposition of official anti-dumping measures and countervailing measures;

g) Tax difference to be refunded (if any);

h) Procedures and dossiers for examination and imposition of official anti-dumping measures and countervailing measures.

#### **Article 45. Imposition of retroactive anti-dumping tax and countervailing tax**

1. The imposition of retroactive anti-dumping tax, countervailing tax shall comply with the regulations specified in Clause 4 Article 81 and Clause 4 Article 89 of the Law on foreign trade management.

2. The imposition of retroactive anti-dumping tax, countervailing tax shall be reviewed at the request of the requesting party on the sudden increase in the volume and quantity of goods under

consideration imported into Vietnam during the period from the date of issuance of the investigation decision to the imposition of temporary anti-dumping tax and countervailing tax which may cause damages that are hard to recover from to the domestic industry

3. If the official anti-dumping, countervailing tax rates are higher than the temporary anti-dumping, countervailing tax rates, the retroactive tax rates shall be equal to the temporary anti-dumping, countervailing tax rates

4. If the official anti-dumping, countervailing tax rates are lower than the temporary anti-dumping, countervailing tax rates, the retroactive tax rates shall be equal to the official anti-dumping, countervailing tax rates

### **Chapter III**

## **INVESTIGATION AND IMPOSITION OF SAFEGUARD MEASURES**

### **Section 1. SAFEGUARD INVESTIGATIONS**

#### **Article 46. Bases for conducting investigations**

1. The Minister of Industry and Trade shall conduct investigation after receiving the dossiers requesting the imposition of safeguard measures from the organizations and/or individuals representing the domestic industry on the condition that the total volume and quantity of similar goods or directly competitive goods produced by domestic producers submitting such dossiers or domestic producers supporting the request for imposition of safeguard measures accounting for at least 25% of the total quantity and volume of similar goods or directly competitive goods produced domestically.

2. The Minister of Industry and Trade shall issue a decision on investigation if the investigating authority prepares evidences proving the necessity to impose safeguard measures.

#### **Article 47. Application for imposition of safeguard measures**

1. The application for imposition of safeguard measures (hereinafter referred to as application) includes a written request for imposition of safeguard measures and related documents.

2. The written request for imposition of safeguard measures includes the following contents:

a) Name, address and other necessary information of the organization/individual representing the domestic industry;

b) Information, data and evidences for determining the representative of the domestic industry, including list of domestic organizations and individuals producing similar goods or directly competitive goods; volume and quantity of similar goods or directly competitive goods produced by the above organizations and individuals;

c) Names and addresses of organizations and individuals producing similar goods supporting or opposing the case;

d) Description of the imports subject to investigation of imposition of safeguard measures, including scientific names, trade names, common names; ingredient; basic physical and chemical characteristics; production process; main purpose; Vietnam and international standards/regulations; codes of goods in accordance with the List of Imports and Exports of Vietnam and the effective import tax rates applied according to the export tariffs and import tariffs in each period;

dd) Description of similar goods or directly competitive goods of the domestic industry, including scientific names, trade names, common names; ingredient; basic physical and chemical characteristics; main purpose; Vietnam and international standards/regulations;

e) Information on the volume, quantity and value of the imports specified in Point d of this Clause within 03 years prior to the submission of dossiers;

g) Information on the volume, quantity and value of similar goods or directly competitive goods of the domestic industry specified in Point dd of this Clause within 03 years prior to the submission of dossiers; In case the domestic industry has less than 3 years of operation, the data collected will be the entire operation duration of such domestic industry up to the time of submission of the application;

h) Information, data and evidences on serious damage or threat to cause serious damage to the domestic industry;

i) Information, data and evidences on the causal relationship between the imports of goods specified in Clause d this Point and the serious damage to the domestic industry or threat to cause serious damage to the domestic industry;

k) Specific requirements on the imposition of safeguard measures, the duration and the extent of imposition.

#### **Article 48. Preparation of application for imposition of safeguard measures in the absence of requesting party**

1. If no one requests for investigation but there are clear evidences of excessive import of goods into Vietnam which causes or may causes serious damage to the domestic industry, the investigating authority shall prepare an application for imposition of safeguard measures and submit it to the Minister of Industry and Trade for reviewing and deciding the investigation.

2. The application prepared by the investigating authority must ensure the contents specified in Article 47 hereof (Except for Point a, b and c Clause 2).

3. Relevant organizations and individuals must cooperate and provide necessary information at the request of the Ministry of Industry and Trade.

#### **Article 49. Verification of application**

1. Within 15 days after the receipt of the application, the investigating authority shall review the adequacy and validity of such application.
2. If the application is not adequate or valid, the investigating authority shall request the supplementation from the organization/individual. Organizations and individuals shall supplement the missing contents at the request of the investigating authority within 30 days since the issuance of such request.
3. Within 45 days from the receipt of the satisfactory application, the Ministry of Industry and Trade shall review and send it to the Minister of Industry and Trade for decision of investigation. In case of necessity, the issuance of the investigation decision may be extended but not more than 30 days.
4. Contents of the verification of application include:
  - a) Determine the legal representative status of a domestic industry of the organization or individual submitting the application as provided for in Clause 1 of Article 46 hereof;
  - b) Determine evidences of the excessive import of goods into Vietnam which causes or may cause serious damage to the domestic industry.

#### **Article 50. Decision on the investigation for imposition of safeguard measures**

The decision of the Minister of Industry and Trade on safeguard investigation shall include the following contents:

1. Specific description of the goods under consideration, codes of goods in accordance with the List of Imports and Exports of Vietnam and the effective import tax rates applied according to the export tariffs and import tariffs in each period;
2. Names of the enterprises and representatives of domestic organizations and individuals producing similar goods or directly competitive goods subject to imposition of safeguard measure;
3. Summary of the information on the increase in import of goods under consideration;
4. Serious damage or threat to cause serious damage to the domestic industry due to the increase in import

#### **Article 51. Determination of serious damages and threat to cause serious damages to the domestic industry**

1. When determining the serious damages and threat to cause serious damages to the domestic industry, the investigating authority shall consider the following factors:

- a) The absolute or relative increase of the volume and quantity of imported goods as compared to the volume and the quantity of similar goods or directly competitive goods domestically produced;
  - b) The rate of increase in volume and quantity of the imports specified in Point a of this Clause due to the impact of unforeseen developments;
  - c) Effects on price of imports under consideration regarding the prices of similar goods or directly competitive goods domestically produced;
  - d) Effects of the increase in import of goods under consideration on the domestic industry through the following factors: Market share, revenue, output, design capacity, utilized capacity, profit, labor, inventory and other factors deems appropriate by the investigating authority.
2. The determination of serious damages and threat to cause significant damages to the domestic industry must be carried out according to specific evidences.
  3. The investigation period for determining serious damage or threat to cause serious damage to the domestic industry is 03 years. In case the domestic industry has less than 3 years of operation, the data collected will be the entire operation duration of such domestic industry up to the time of issuance of the investigation decision by the Minister of Industry and Trade.

## **Section 2. IMPOSITION OF SAFEGUARD MEASURES**

### **Article 52. Imposition of temporary safeguard measures**

1. Based on the preliminary conclusion, the Minister of Industry and Trade shall impose the temporary safeguard measures upon the following factors:
  - a) There is an excessive increase in the import of goods under consideration;
  - b) The domestic industry is suffered from serious damage or threatened with serious damage;
  - c) The excessive increase in the import of goods specified in Point a of this Clause causes or may cause serious damage to the domestic industry;
  - d) The delay in imposition of safeguard measures causes or may cause serious damage to the domestic industry that are hard to recover from later.
2. Temporary safeguard measures shall be applied only in the form of additional import tariff.
3. The decision on imposition of temporary safeguard measures shall be published with the following contents:

- a) Specific description of the goods subject to safeguard measures, codes of goods in accordance with the List of Imports and Exports of Vietnam and the effective import tax rates applied according to the current export tariffs and import tariffs;
  - b) List of countries exempting from imposition of temporary safeguard measures;
  - c) Temporary safeguard tax rate;
  - d) Duration of imposition of temporary safeguard measures;
  - dd) Information and evidences proving the increase in import of goods under consideration causes or may cause serious damage to the domestic industry.
  - e) Information and evidences proving the delay in imposition of safeguard measures causes or may cause serious damage to the domestic industry that are hard to recover from later.
  - g) Procedures and dossiers for examination and imposition of temporary safeguard measures.
4. The Minister of Industry and Trade may suspend the imposition of safeguard measures ahead of time if necessary.

#### **Article 53. Imposition of official safeguard measures**

1. Within 15 days from the day on which the investigating authority send the final conclusion, the Minister of Industry and Trade shall issue an official decision on the case.
2. The decision on imposition of official safeguard measures includes the following contents:
  - a) Description of the imports subject to imposition of official safeguard measures, including names, basic characteristics and main purpose, codes of goods in accordance with the List of Imports and Exports of Vietnam and the effective import tax rates applied according to current export tariff and import tariff;
  - b) Official safeguard measures;
  - c) Effective date and duration of imposition of official safeguard measures;
  - d) The refund of safeguard tax difference (if any);
  - dd) Procedures and dossiers for examination and imposition of official safeguard measures.
  - e) The investigation conclusions suggesting the need to impose the official safeguard measures.

#### **Article 54. Regulations on imposition of import quotas, tariff-rate quotas**

If the Minister of Industry and Trade impose official safeguard measures through import quotas and tariff-rate quotas, the following contents shall be applied:

1. Quantity and volume of import quotas and tariff-rate quotas are not lower than the quantity and volume of the average imports of the last 03 years with import data, unless the investigating authority has reasonable arguments that it is necessary to have a lower volume or quantity of import quotas to prevent or overcome serious damage or threat to cause serious damage
2. The Ministry of Industry and Trade shall allocate quotas among exporting countries based on the total volume and quantity of goods exported by the exporting countries into Vietnam in the last three years with import and taking into account of the special factors affecting the trading.
3. The Ministry of Industry and Trade shall consult with the countries with volume and quantity of goods mainly imported into Vietnam and being allocated quotas
4. If the import quotas exceed 01 year, the Ministry of Industry and Trade shall loosen the import quotas and tariff-rate quotas for the imposition of the subsequent years
5. The customs authority shall cooperate with the Minister of Industry and Trade in monitoring and managing the imposition of import quotas and tariff-rate quotas.

#### **Chapter IV.**

### **REVIEW OF THE IMPOSITION OF TRADE REMEDIES**

#### **Section 1. GENERAL PROVISIONS**

##### **Article 55. Dossiers for review of the imposition of trade remedies**

The dossiers for review of the imposition of trade remedies (hereinafter referred to as dossiers for review) shall include:

1. Application for review of the imposition of trade remedies according to the form promulgated by the investigating authority;
2. Other documents and information deems necessary by the requesting party.

##### **Article 56. Verification of dossiers for review**

1. Within 15 days from the receipt of the dossier for review, the investigating authority shall notify the organization/individual on the adequacy and validity of the dossier for review. If the dossier for review is not adequate or valid, the investigating authority shall request supplementation from the organization/individual.

2. Within 30 days after the receipt of the satisfactory dossier for review, the investigating authority shall review the dossier and send it to the Minister of Industry and Trade for considering the review of the imposition of trade remedies.

#### **Article 57. Questionnaire for review**

1. Within 15 days since the issuance of the decision on review, the investigating authority shall send the questionnaire for review to the following subjects:

- a) The review requesting party;
- b) The reviewed party;
- c) Other involved parties deemed necessary by the investigating authority.

2. Within 30 days after receiving the questionnaires for review, the concerned parties must provide written replies to all questions in the questionnaire. This time limit may be extended once by the investigating authority but not more than 30 days based on the written request for extension of the concerned party.

3. The questionnaires shall be considered having reached the recipients after 07 working days from the date on which they were sent by the investigating authority. The sending date shall be determined according to the postmark.

### **Section 2. REVIEW OF THE ANTI-DUMPING MEASURES AND COUNTERVAILING MEASURES**

#### **Mini section 1. REVIEW OF THE ANTI-DUMPING MEASURES AND COUNTERVAILING MEASURES AT THE REQUEST OF CONCERNED PARTIES**

##### **Article 58. Submission of the dossiers for review at the request of concerned parties**

1. Within 60 days before the end of one year from the date of issuance of the decision on the imposition of official anti-dumping measures and countervailing measures or the latest decision on the results of the review of anti-dumping measures, countervailing measures, the concerned parties as prescribed in Article 59 hereof may submit the dossiers for review, except for cases where the submission deadline is less than 09 months before the time limit for the Minister of Industry and Trade to decide whether to carry out the final review of anti-dumping or countervailing measures.

2. The contents of the dossier for review shall comply with the form promulgated by the investigating authority

##### **Article 59. The review requesting party**



The following organizations and individuals may submit dossiers for review of the imposition of anti-dumping and countervailing measures in accordance with Article 58 hereof:

1. Domestic producers as provided for in Clause 2 of Article 79 and Clause 2 of Article 87 of the Law on foreign trade management.
2. Foreign producers and exporters which may submit dossiers for review of the imposition of official anti-dumping measures and countervailing measures of such foreign producers and exporters;
3. Importers of goods subject to anti-dumping and countervailing measures;
4. Governments of foreign producers and exporters which may submit dossiers for review of the imposition of official anti-dumping measures and countervailing measures of such foreign producers and exporters;

#### **Article 60. Contents of the review at the request of concerned parties**

The investigating authority shall conduct the review of one or more of the following contents, based on the contents requested by the concerned parties:

1. The dumping margin, the level of subsidy of one, some or all of the foreign producers and exporters
2. Commitments to eliminate dumping and subsidies of one, some or all of the foreign producers and exporters who commit;
3. Damages of the domestic industry and the causal relationship between the dumping on goods/ goods subsidies of relevant foreign producers and exporters and the damage to domestic industry
4. Scope of imposition of anti-dumping measure and countervailing measure.

#### **Article 61. Decision on the review result at the request of concerned parties**

1. Within 15 days since the date on which the investigating authority submit the review conclusion, the Minister of Industry and Trade shall issue the decision on the review result of the imposition of trade remedies.
2. Based on the review conclusion of the investigating authority, the Minister of Industry and Trade shall promulgate one of the following decisions:
  - a) Adjustment or non-adjustment to the imposition of anti-dumping and countervailing measures based on the review results under Article 60 hereof:
  - b) Termination of the imposition of anti-dumping or countervailing measures in cases where the conclusions on the review determine that the anti-dumping or countervailing measures are no

longer necessary to remedy the damage of the domestic industry or the domestic industry will no longer suffer damage if anti-dumping or countervailing measures are terminated.

3. The adjustment to the imposition of anti-dumping and countervailing measures specified in Point a Clause 2 this Article shall not affect the time limit for the effective imposition of anti-dumping or countervailing measures.

## **Mini section 2. FINAL REVIEW OF IMPOSITION OF ANTI-DUMPING MEASURES AND COUNTERVAILING MEASURES**

### **Article 62. Submission of the dossiers for final review**

1. At least 12 months before the decision on imposition of anti-dumping measures and countervailing measures expires, the investigating authority shall announce the receipt of dossiers for final review of imposition of anti-dumping measures and countervailing measures

2. Within 30 days since the notice of the investigating authority, the domestic producer representing the domestic industry according to Clause 2 Article 79 and Clause 2 Article 87 of the Law on foreign trade management may submit the dossiers for final review of imposition of anti-dumping measures and countervailing measures

### **Article 63. Contents of the final review of imposition of anti-dumping measures and countervailing measures**

1. The investigating authority shall carry out final review to assess the possibility of continuation or recurrence of dumping or subsidizing acts causing damage to domestic industries in case of termination of anti-dumping measures/countervailing measures.

2. The final review of imposition of anti-dumping measures and countervailing measures shall include the following contents:

a) The possibility of imported goods being dumped, subsidized if anti-dumping or anti-subsidy measures are terminated;

b) The possibility that a domestic industry suffers or may suffer from serious damage if anti-dumping or anti-subsidy measures are terminated

c) The causal relationship between the possibility of dumping on imports/import subsidies and the damage that likely occurs to a domestic industry.

### **Article 64. Decision on the result of the final review of imposition of anti-dumping measures and countervailing measures**

Based on the review conclusion of the investigating authority, the Minister of Industry and Trade shall promulgate one of the following decisions:

1. Extension of the imposition of anti-dumping or countervailing measures if the final review determines that elimination of anti-dumping or anti-subsidy measures may result in the continuation or recurrence of dumping on goods or good subsidies which cause damage to the domestic industry.

2. Termination of the imposition of anti-dumping or countervailing measures in cases the requesting domestic producers withdraw their requests for review or the final conclusion of the investigating authority determines that there is no possibility of continuation or recurrence of dumping on goods or good subsidies that causes damage to the domestic industry.

### **Mini section 3. REVIEW OF NEW EXPORTERS**

#### **Article 65. Determination of new exporters**

1. “New exporter” refers to the producers or exporters of the exporting country have been subject to anti-dumping, countervailing measures and did not export goods subject to investigation into Vietnam during the initial investigation period.

2. New exporters may submit dossiers for review of the imposition of anti-dumping and countervailing measures when the following conditions are satisfied:

a) The new exporter has no relationship with the organizations and individuals subject to anti-dumping and countervailing measures in accordance with Article 5 hereof:

b) The exporter has actually exported the goods to Vietnam after the investigation period determined by the investigating authority in the initial investigation;

c) The volume and quantity of exports to Vietnam at the time of submission of the request for review must be large enough so that the investigating authority can determine the reasonable export price.

3. New exporters may submit dossiers for review after the decision on imposition of anti-dumping and countervailing measures takes effect.

#### **Article 66. Contents of the review of new exporters**

The review of new exporters shall include the following contents:

1. The separate dumping margin and level of subsidy of the new exporter;

2. Conditions for imposition of anti-dumping measures and countervailing measures applied to the new exporter.

#### **Article 67. Decision on the result of the review of new exporters**

Based on the conclusion on review of new exporters of the investigating authority, the Minister of Industry and Trade shall promulgate one of the following decisions:

1. Imposition of separate anti-dumping measures and countervailing measures to new exporters;
2. Continuation of the imposition of the effective anti-dumping or countervailing measures in case the new exporter withdraws the request for review or does not cooperate in the review process.

### **Section 3. REVIEW OF SAFEGUARD MEASURES**

#### **Article 68. Midterm review of the imposition of safeguard measures**

1. If the duration of imposition of safeguard measures (including duration of imposition of temporary safeguard measures) is more than 03 years, the Minister of Industry and Trade shall carry out the midterm review of the imposition of safeguard measures.
2. Based on the midterm review conclusion of the investigating authority, the Minister of Industry and Trade shall promulgate one of the following decisions:
  - a) Continue the imposition of safeguard measures;
  - b) Mitigate the imposition of safeguard measures;
  - c) Terminate the imposition of safeguard measures.

#### **Article 69. Final review of the imposition of safeguard measures**

1. At least 09 months before the decision on imposition of safeguard measures expires, the investigating authority shall announce the receipt of dossiers for final review of imposition of safeguard measures. Within 30 days since the announcement of the investigating authority, organizations and individuals may submit the dossier for final review of imposition of safeguard measures.
2. The final review of imposition of safeguard measures shall include the following contents:
  - a) Determine the level of increase of imports into Vietnam since the safeguard measure was applied;
  - b) Assess the situation of production and business activities of the domestic industry since the safeguard measure was applied;
  - c) Adjustments of the domestic industry since the safeguard measure was applied;
  - d) The possibility of serious damage or threat to cause serious damage to the domestic industry if the safeguard measures are terminated.

3. The decision on result of the final review of imposition of safeguard measures shall include the following contents:

- a) Renew or not renew the imposition of safeguard measures;
- b) Adjust the level of imposition of safeguard measures;
- c) Adjust the scope of imposition of safeguard measures;

#### **Section 4. REVIEW OF THE SCOPE OF GOODS**

##### **Article 70. Submission of dossiers by relevant parties**

1. The following organizations and individuals may submit dossiers for review:

- a) Domestic producers;
- b) Foreign producers and exporters;
- c) Importers;
- d) Organizations and individuals using the imports.

2. The Minister of Industry and Trade shall consider the review of the scope of goods subject to trade remedies based on the dossiers for review.

##### **Article 71. Contents of review of scope of goods subject to trade remedies**

The review of scope of goods subject to trade remedies shall include the following contents:

- 1. Comparison of imports and similar goods or directly competitive goods produced domestically;
- 2. Alternative capacity of imported goods;
- 3. Capacity to produce similar goods or directly competitive goods of the domestic industry.

##### **Article 72. Decisions on the result of review of scope of goods subject to trade remedies**

Based on the review conclusion of the investigating authority, the Minister of Industry and Trade shall promulgate one of the following decisions:

- 1. Do not adjust scope of goods subject to trade remedies
- 2. Narrow the scope of goods subject to trade remedies

3. Exempt from trade remedies applied to specific importers

## **Chapter V**

### **PREVENTION OF EVASION OF TRADE REMEDIES**

#### **Section 1. ACTIONS AIMING TO EVADE TRADE REMEDIES**

##### **Article 73. Expansion of the scope of imposition of trade remedies**

The scope of imposition of trade remedies may be expanded for goods evading from trade remedies as follows:

1. Raw materials, components or materials from countries subject to trade remedies imported into Vietnam for the production of goods subject to trade remedies;
2. Goods similar to those being subjected to trade remedies from in a third country and such goods use raw materials, components or materials from countries subject to trade remedies;
3. Imports from countries subject to trade remedies which are not significantly different from those currently subject to trade remedies;
4. Goods subject to trade remedies transferred through a third country;
5. Goods subject to trade remedies which may change their business form and distribution channel to enjoy benefit from lower levels of trade remedies.

##### **Article 74. Actions aiming to evade trade remedies through manufacturing in Vietnam**

Goods specified in Clause 1 Article 73 hereof shall be considered aiming to evade trade remedies through manufacturing in Vietnam if satisfied the following conditions:

1. Goods similar to those subject to trade remedies which are manufactured from raw materials, components or materials from countries subject to trade remedies and are sold at a price lower than the normal price of the goods subject to trade remedies;
2. Raw materials, components or materials from countries subject to trade remedies imported into Vietnam for the primary purpose of producing goods subject to trade remedies;
3. Production and assembly activities have significantly increased in Vietnam either before or since the issuance of the decision on investigation of the Minister of Industry and Trade.
4. Raw materials, components or materials from countries subject to trade remedies amount for at least 60% of the total value of raw materials, materials or components used for the manufacture or assembly of goods subject to trade remedies in Vietnam.

#### **Article 75. Value added**

In cases where the value added of goods manufactured or assembled under Article 74 of this Decree exceeds 25% of the total cost of goods subject to trade remedies, the importation of raw materials, components or materials are not considered evading trade remedies. In case of necessity, the investigating authority may consider the added value ratio in the total other production costs in accordance with the characteristics of such production branch.

#### **Article 76. Actions aiming to evade trade remedies through manufacturing in a third country**

Goods specified in Clause 2 Article 73 hereof shall be considered aiming to evade trade remedies through manufacturing in Vietnam if satisfied the following conditions:

1. The export price of the goods exported from a third country into Vietnam is lower than the normal price of the goods subject to trade remedies initially;
2. The volume and quantity of similar goods imported into Vietnam account for a large proportion of total sales of the producers and exporters
3. The volume and quantity of similar goods imported into Vietnam have begun and significantly increased in Vietnam either before or since the issuance of the decision on investigation of the Minister of Industry and Trade;
4. Raw materials, components or materials from countries subject to trade remedies amount for at least 60% of the total value of raw materials, materials or components of goods subject to trade remedies in Vietnam exported into Vietnam.

#### **Article 77. Actions aiming to evade trade remedies through insignificant changes in goods subject to trade remedies**

Goods specified in Clause 3 Article 73 hereof shall be considered aiming to evade trade remedies through manufacturing in Vietnam if satisfied the following conditions:

1. The volume and quantity of imported goods specified in Clause 3 Article 73 hereof significantly increase compared to the volume and quantity of goods subject to trade remedies imported to Vietnam of the producers and exporters.
2. The volume and quantity of imported goods specified in Clause 3 Article 73 hereof have significantly increased in Vietnam either before or since the issuance of the decision on investigation of the Minister of Industry and Trade.

#### **Article 78. Determination of insignificant changes**

The insignificant change provided for in Clause 3, Article 73 of this Decree is determined when there is virtually no difference between imported goods and goods subject to trade remedies in terms of characteristics, purpose, distribution channel and cost

## **Section 2. INVESTIGATION AND PREVENTION OF EVASION OF TRADE REMEDIES**

### **Article 79. Dossiers for application of the prevention of evasion of trade remedies**

1. The dossier for application of prevention of evasion of trade remedies includes a written request for application of prevention of evasion of trade remedies and related documents.

2. The written request for application of prevention of evasion of trade remedies includes the following contents:

- a) Name, address and other necessary information of the requesting party;
- b) Description of the imports subject to application of prevention of trade remedy evasion, including scientific names, trade names, common names; ingredient; basic physical and chemical characteristics; production process; main purpose; Vietnam and international standards/regulations; codes of goods in accordance with the List of Imports and Exports of Vietnam and the effective import tax rates applied according to the export tariffs and import tariffs in each period;
- c) Description of the volume and quantity of imported goods specified in Article 73 hereof;
- d) Description of the volume and quantity of goods produced domestically;
- dd) Information on export prices of goods specified in Point b of this Clause at the time of import into Vietnam within 12 months before the requesting party submits the dossier or before the investigating authority prepare the dossier under the decision of the Minister of Industry and Trade;
- e) Information, data and evidences of actions aiming to evade trade remedies claimed by the requesting party;
- g) Name, address and other necessary information of all requested party;
- h) Specific requirements on the application of prevention of evasion of trade remedies, the duration and the extent of imposition.

### **Article 80. Preparation of the dossier for application of the prevention of evasion of trade remedies in the absence of requesting party**

If no one requests for application but there are clear evidences of the evasion of trade remedies, the investigating authority shall prepare a dossier for application of the prevention of evasion of



trade remedies and submit it to the Minister of Industry and Trade for considering the investigation.

#### **Article 81. Procedures and contents of the investigation**

1. Within 15 days after the receipt of the application, the investigating authority shall review the adequacy and validity of such application.
2. If the application is not adequate or valid, the investigating authority shall request the supplementation from the organization/individual and such organizations and individuals shall supplement the missing contents at the request of the investigating authority within 30 days since the issuance of such request.
3. Within 45 days after the receipt of the satisfactory dossier, the Minister of Industry and Trade shall consider the investigation based on the results of examination of dossiers of the investigating authority.
4. The investigation for prevention of evasion of trade remedies includes the following contents:
  - a) Determination of actions aiming to evade trade remedies;
  - b) The change of trade flows from the originating or exporting countries after the effective date of the decision on application of trade remedies and this change is the cause of such evasion.
  - c) Damage to the domestic industry or the reduced effectiveness of the effective trade remedies.

#### **Article 82. Investigation time limit**

1. The time limit for investigation of evasion of trade remedies shall not exceed 06 months since the issuance of the investigation decision.
2. In special cases, the Minister of Industry and Trade may extend the investigation but it shall not exceed 06 months.

#### **Article 83. Application of the prevention of evasion of trade remedies**

1. Within 15 days since the date on which the investigating authority submit the final conclusion, the Minister of Industry and Trade shall decide whether to apply or not apply the prevention of evasion of trade remedies.
2. If the Minister of Industry and Trade decide to apply the prevention of evasion of trade remedies, the effective trade remedies will be extended to each producer or exporter of goods described in Article 73 of this Decree and confirmed the existence of acts aiming to evade trade remedies .

3. The time limit for the application of the prevention of evasion of trade remedies ends when the time limit for the application of the initial trade remedy ceases to be valid.

## **Chapter VI**

### **DEALING WITH THE TRADE REMEDIES IMPOSED ON THE VIETNAMESE EXPORTS**

#### **Article 84. Principles**

1. Assistance for Vietnamese traders subject to trade remedy investigation as specified in Article 76 of the Law on foreign trade management shall be carried out on the basis of the written requests of relevant traders and trade associations.

2. The initiation of a lawsuit against importing countries specified in Article 90 of this Decree shall be carried out by the Ministry of Industry and Trade on the basis of collected information and after the coordination and exchange with the ministries, ministerial agencies and other competent agencies, shall be reported to the Prime Minister and be approved the plan of lawsuit.

3. The Ministry of Finance shall ensure the particular budget for trader assistance in accordance with Article 76 of the Law on foreign trade management.

4. Assisting activities to ensure the legitimate rights and interests of Vietnamese traders shall comply with the provisions of Vietnamese law and international agreements to which the Socialist Republic of Vietnam is a party.

#### **Article 85. Provision of information related to the case**

The information provided to traders as specified in Point a Clause 1 Article 76 of the Law on foreign trade management shall be the information published by relevant authorities of the importing country or permitted to be published in accordance with provisions of international agreements to which the Socialist Republic of Vietnam is a party.

#### **Article 86. Early warning system of foreign trade remedy lawsuit**

1. The Ministry of Industry and Trade shall develop and operate an early warning system on the possibility of foreign trade remedy proceedings to inform enterprises and trade associations to prevent and prepare for the cases

2. The Ministry of Industry and Trade shall promulgate the organization and operation of the early warning system.

#### **Article 87. Exchange with importing countries that are conducting trade remedy investigation into Vietnamese exports**

The exchange with the importing country investigating the imposition of trade remedies as stipulated in Point b, Clause 1, Article 76 of the Law on Foreign Trade Management shall be carried out in appropriate forms presided over by the Ministry of Industry and Trade and shall comply with the provisions of Vietnamese law and international agreements to which the Socialist Republic of Vietnam is a party.

**Article 88. Assistance in cases in which Vietnamese traders are subject to countervailing measure investigation**

If Vietnamese traders are subject to countervailing measure investigation as specified in Clause 2 Article 76 of the Law on Foreign Trade Management, the Ministry of Industry and Trade shall establish a plan to cooperate with relevant authorities of the importing country as follows:

1. Conduct consultation with the foreign investigating authority on accused subsidy programs of Vietnam;
2. Provide information and documents related to the accused subsidy programs of Vietnam at the request of the foreign investigating authority in accordance with regulations of effective laws;
3. Cooperate with the foreign investigating authority in site investigation of the accused subsidy programs of Vietnam;
4. Other appropriate activities.

**Article 89. Preparation of the plan for requesting compensation and retaliation in cases where Vietnamese traders are subject to trade remedy investigation**

1. The Ministry of Industry and Trade shall take charge and coordinate with concerned ministries, ministerial agencies and organizations and individuals in preparing the plan for requesting compensation under international agreements to which the Socialist Republic of Vietnam is a party and submit it to the Prime Minister for approval.
2. The Ministry of Industry and Trade shall take charge and consult with concerned authorities of the importing country on the approved plan for requesting compensation approved in Clause 1 of this Article and issue the decision on specific implementation of the plan
3. If the Government of Vietnam and the Government of the importing country cannot reach an agreement on compensation, the Ministry of Industry and Trade shall take charge, coordinate with concerned ministries, ministerial agencies, organizations and individuals in preparing a retaliation plan under international agreements to which the Socialist Republic of Vietnam is a party and report it to the Prime Minister for approval and promulgation of the decision on implementation of the approved retaliation plan.
4. Procedures for carrying out the request for compensation and retaliation shall comply with the provisions of Vietnamese law and international agreements to which the Socialist Republic of Vietnam is a party.

**Article 90. Suing the import country for the violations of relevant international treaties to which the Socialist Republic of Vietnam is a signatory**

1. The Ministry of Industry and Trade shall take charge and coordinate with other ministries, ministerial agencies and competent regulatory bodies in considering and initiating the lawsuit in accordance with Point c, Clause 1, Article 76 of the Law on Foreign Trade Management on the basis of collected information or at the written proposal of the concerned traders or trade associations, report it to the Prime Minister and carry out the approved lawsuit plan.

2. In cases where the concerned trader or trade associations submit their written requests for initiation of lawsuits, the written requests must contain the following contents:

a) Description of trade remedies investigated and imposed by the foreign country;

b) Damage caused by the trade remedy investigation specified in Point a of this Clause;

c) Description of violations of relevant international treaties to which the Socialist Republic of Vietnam is a signatory;

d) Proposals of the traders, trade associations;

dd) Other relevant information and documents deemed necessary by the traders or trade associations.

3. The procedures for suing the importing country that is conducting trade remedy investigation shall comply with international treaties to which the Socialist Republic of Vietnam is a signatory

4. Information and documents in the process of reviewing and evaluating before initiating lawsuits, in the process of lawsuit or information requested by concerned parties for confidentiality shall be regarded as confidential information according to effective law provisions.

5. Relevant traders and trade associations which have sent written requests as specified in Clause 2 of this Article shall fully coordinate with the Ministry of Industry and Trade in the process of suing the importing country that is conducting trade remedy investigation.

**Article 91. Participation in related parties in trade remedy cases and third parties in disputes at the World Trade Organization regarding trade remedies**

1. The Ministry of Industry and Trade shall consider and register the participation in related parties when a foreign country conducts trade remedy investigation into Vietnamese exports.

2. The Ministry of Industry and Trade shall consider and register the third-party participation in a dispute settlement case at the World Trade Organization if the case is in connection with rights and interests of Vietnam in trade remedy field. The Ministry of Industry and Trade may consult

with concerned ministries and branches for consideration and registration of participation if necessary.

3. The Ministry of Industry and Trade may consider providing information and documents during the participation in a third party as specified in Clause 2 of this Article on the basis of written requests of organizations or individuals, provided that such documents and information may be published in accordance with international treaties to which the Socialist Republic of Vietnam is a party.

#### **Article 92. Use of legal consultancy services**

1. The Ministry of Industry and Trade shall consider using legal consultancy services during the implementation of the provisions of Article 76 of the Law on Foreign Trade Management. Ministries and ministerial agencies shall coordinate with the Ministry of Industry and Trade in selecting legal consultancy services at the written requests of the Ministry of Industry and Trade.

2. The Ministry of Industry and Trade shall stipulate the criteria for selecting appropriate legal consultancy services.

3. The Ministry of Finance shall ensure the particular budget for use of legal consultancy services in assistance for traders in accordance with Article 76 of the Law on foreign trade management.

#### **Article 93. Coordination mechanism between regulatory bodies, trade associations and traders**

1. Coordination mechanism between regulatory bodies, trade associations and traders is based on the following principles:

a) The Ministry of Industry and Trade shall take charge and coordinate with ministries, ministerial agencies, provincial People's Committees, other competent regulatory bodies and concerned organizations and individuals in the assistance for traders in accordance with Article 76 of the Law on Foreign Trade Management;

b) Ministries, ministerial agencies, provincial People's Committees, other competent regulatory bodies and relevant organizations, individuals shall be responsible for the information, documents and evaluation opinions provided to the Ministry of Industry and Trade during the handling of trade remedies applied to Vietnamese exports.

2. The coordination contents shall be conducted as follows:

a) Ministries, ministerial agencies, provincial People's Committees and other competent regulatory bodies shall, within their powers and functions, supply information, documents and evaluation opinions at the request of the Ministry of Industry and Trade, explain their contents when the foreign investigating authority conducts site investigation under the regulations of the Ministry of Industry and Trade;

b) Trade associations shall coordinate with the Ministry of Industry and Trade in monitoring information on export markets in order to assess the risks for foreign trade remedy investigation into Vietnamese exports, report information related to the foreign trade remedy investigation, impose trade remedies to members, consider participating in parties involved in the case and carry out other activities at the request of the Ministry of Industry and Trade;

c) The Vietnam Chamber of Commerce and Industry shall, within its functions and powers, coordinate with the Ministry of Industry and Trade in guiding and assisting traders subject to foreign trade remedy investigation, carry out other assisting activities at the request of the Ministry of Industry and Trade;

d) Vietnamese representative missions in foreign countries shall collect and monitor the information and notices of the concerned authorities of the importing country on trade remedies and promptly report them to the Ministry of Industry and Trade, assist in the selection of legal consultancy services at the request of the Ministry of Industry and Trade;

dd) The Ministry of Finance shall coordinate with the Ministry of Industry and Trade in assisting traders in accordance with the provisions of this chapter, requesting the customs authorities to promptly provide import and export data at the request of the agencies related to the Ministry of Industry and Trade;

e) The Ministry of Foreign Affairs shall coordinate with the Ministry of Industry and Trade in assisting traders in accordance with the provisions of this chapter and direct the Vietnamese representative missions in foreign countries to take the initiative in working with concerned authorities of the importing country to study, monitor and sum up the information on the case, promptly report them to the Ministry of Industry and Trade and coordinate with the Ministry of Industry and Trade in preparing settlement plans;

g) The judiciary shall coordinate with the Ministry of Industry and Trade in assisting traders in accordance with the provisions of this chapter and coordinate in studying and evaluating legal provisions of the World Trade Organization and other countries on trade remedies;

h) Traders who have submitted written requests for assistance shall coordinate with the Ministry of Industry and Trade in handling the cases and be responsible for the information and documents supplied to the Ministry of Industry and Trade.

## **Chapter VII**

### **IMPLEMENTATION CLAUSE**

#### **Article 94. Effect**

1. This Decree takes effect from January 15, 2018.
2. The following Decrees shall expire from the day on which this Decree comes into force:

- a) Decree No. 150/2003/ND-CP dated December 8, 2003 of the Government detailing the implementation of the ordinance on safeguards in the import of foreign goods into Vietnam;
- b) Decree no. 89/2005/ND-CP dated July 11, 2005 of the Government detailing the implementation of a number of articles of the ordinance on countervailing for imports into Vietnam;
- c) Decree no. 90/2005/ND-CP dated July 11, 2005 of the Government detailing the implementation of a number of articles of the ordinance on anti-dumping for imports into Vietnam;
- d) Decree No. 04/2006/ND-CP dated January 09, 2006 of the Government on establishment, functions, duties, powers, organizational structure of council for handling cases of anti-dumping, countervailing and safeguard.

#### **Article 95. Implementation responsibilities**

1. The Minister of Industry and Trade shall be responsible for organizing the implementation of this Decree.
2. The Ministry of Finance shall guide the procedures for collection and remittance into state budget of receivables from trade remedies applied to goods imported into Vietnam, procedures for refund of trade remedy tax.
3. Ministers, heads of ministerial agencies, heads of Governmental agencies Presidents of People's Committees of provinces shall be responsible for implementing this Decree.

#### **Section 96. Transition clause**

From the day on which this Decree comes into force, cases of safeguards whose documents on complaint and investigation are received by the competent authority before this Decree comes into force shall continue to be considered and dealt with according to regulations of the Decree No. 150/2003/ND-CP dated December 8, 2003 detailing the implementation of the ordinance on safeguards in the import of foreign goods into Vietnam, Decree no. 89/2005/ND-CP dated July 11, 2005 detailing the implementation of a number of articles of the ordinance on countervailing for imports into Vietnam and Decree no. 90/2005/ND-CP dated July 11, 2005 detailing the implementation of a number of articles of the ordinance on anti-dumping for imports into Vietnam./.

**PP THE GOVERNMENT  
PRIME MINISTER**

**Nguyen Xuan Phuc**

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