

**NATIONAL ASSEMBLY**

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**THE SOCIALIST REPUBLIC OF VIETNAM**

**Independence – Freedom - Happiness**

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*Hanoi, June 12, 2017*

## **LAW**

### **ON FOREIGN TRADE MANAGEMENT**

*Pursuant to the Constitution of the Socialist Republic of Vietnam;*

*The National Assembly promulgates Law on trade foreign management.*

## **Chapter I**

### **GENERAL PROVISIONS**

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

This Law provides regulations on measures for the foreign trade management, the development of foreign trade activities and solutions for dealing with disputes related to the imposition of measures for the foreign trade management.

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

1. Regulatory authorities.
2. Traders engaging in foreign trade activities.
3. Other relevant domestic and foreign individuals and organizations.

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

For the purpose of this Law, the terms below shall be construed as follows:

1. "foreign trade activities" means activities related to the international exchange of products in the forms of export and import; temporary importation; temporary exportation; merchanting trade; transit and other activities related to the international exchange of products in accordance with regulations of Vietnam law and international treaties to which the Socialist Republic of Vietnam is a signatory.
2. "technical measures" means measures imposed on exports and imports in accordance with regulations of law on the quality of goods and products, technical standards and regulations, food safety and measurement.

3. “quarantine measures” includes sanitary measures for animal and animal products and phytosanitary measures and border health quarantine measures in accordance with regulations of law on plant protection and phytosanitary, veterinary medicine and prevention and fighting of infections.

4. “customs-controlled area” means a geological area in the territory of Vietnam that is established in accordance with regulations of Vietnam law and international treaties to which the Socialist Republic of Vietnam is a signatory and the exchange of products between this area and the remaining territory of Vietnam or foreign countries are considered as import and export activities.

5. “foreign trader without presence in Vietnam” means a foreign trader who does not engage in investment and business activities in Vietnam according to the forms prescribed in law on investment, trade or enterprises and does not establish any representative office or branch in Vietnam in accordance with regulations of law on trade or enterprises.

#### **Article 4. Principles of state administration related to the foreign trade**

1. The State shall manage the foreign trade in accordance with regulations of Vietnam law and international treaties to which the Socialist Republic of Vietnam is a signatory.

2. Ensure the transparency, equality and simplification of administrative procedures; ensure legal rights and interests of the State and traders in economic sectors; promote the development of domestic production and export associated with the import management.

3. Ensure the compliance with Most Favored Nation Treatment (MFN) and National Treatment principles in foreign trade activities in accordance with regulations of Vietnam law and international treaties to which the Socialist Republic of Vietnam is a signatory.

#### **Article 5. Freedoms to export and import**

1. Freedoms to export or import of Vietnamese traders except for foreign-invested business entities are exercised as follows:

a) A trader may export, import and carry out other relevant activities without any dependence on its registered business lines except for the products included in the list of prohibited exports and imports and the list of suspended exports and imports;

b) A trader exporting or importing products that require a license or are subject to certain conditions shall fulfill the requirements for the license and conditions;

c) A branch of a Vietnamese trader shall carry on foreign trade activities according to the authorization of the trader.

2. Freedoms to export and import of Vietnamese traders that are foreign-invested business entities or branches of foreign traders in Vietnam shall be exercised as follows:

a) The right to export and right to import shall be exercised in accordance with regulations of this Law and international treaties to which the Socialist Republic of Vietnam is a signatory.

The Ministry of Industry and Trade shall publish the list of products and roadmap to exercise the right to export and right to import in accordance with regulations of international treaties to which the Socialist Republic of Vietnam is a signatory;

b) A trader buys products in Vietnam and exports them to foreign countries by making an export declaration to carry out and take responsibilities for procedures related to the export. Rights to export shall exclude the right to organize a system for collecting products in Vietnam to export;

c) The trader may import products from foreign countries to Vietnam and sell them to traders that have the rights to distribute such products in Vietnam by making an import declaration to carry out and take responsibilities for procedures related to the import. Rights to import shall exclude the right to organize or join the system for distributing products in Vietnam;

3. Foreign traders without presence in Vietnam and other relevant organizations and individuals of countries and territories (hereinafter referred to as “countries”) that are members of World Trade Organization (WTO) and countries signing bilateral agreements with Vietnam shall have the right to export and right to import in accordance with regulations of Vietnam law and international treaties to which the Socialist Republic of Vietnam is a signatory.

4. Exports and imports shall be defined and published corresponding to the classification of products prescribed in the list of Vietnamese exports and imports in accordance with regulations of law on customs.

5. The Government shall provide detailed guidance on Points b and c of Clause 2 and Clause 3 of this Article.

## **Article 6. Responsibility for the state administration related to the foreign trade.**

1. The Government shall unify the state administration related to the foreign trade.

2. Ministry of Industry and Trade working as the focal point to assist the Government in the state administration related to the foreign trade shall have the following duties and powers:

a) Request the competent authority to approve and formulate the strategies, plans and programs for the management and development of the foreign trade, development of markets of the region and the world and economic integration in each period and decide certain administrative measures in accordance with regulations of this Law;

b) Promulgate or request the competent authority to promulgate legislative documents on foreign trade management.

c) Provide instruction on, popularize and organize the implementation, verification and assessment of legislative documents and measures for foreign trade management in accordance with regulation of law;

d) Provide the information related to foreign trade activities and the foreign trade management in accordance with regulations of law on access to information;

dd) Manage the operation of foreign trade promotion organizations in Vietnam;

e) Provide direction on professional duties to the trade representatives affiliated to overseas missions of the Socialist Republic of Vietnam (hereinafter referred to as “trade representative”);

g) Assist the Government and the Prime Minister in negotiating, signing and regulating the implementation of international treaties related to the foreign trade; negotiate for opening the export markets, handling barriers to the export within its power and supervising the implementation of international treaties of partners;

h) Provide the Government with the advice on dealing with disputes related to the imposition of measures for foreign trade management;

i) Inspect and deal with complaints and denunciations and take actions against violations related to foreign trade management within its power;

k) Implement technical measures within its duties and power in accordance with regulations of law.

3. Ministries and ministerial authorities, within their duties and power, shall have the following responsibility:

a) Ministries and ministerial authorities shall take charge and cooperate in negotiating international treaties and supervising the implementation of partners and removing barriers to the export within their power; manage the foreign trade and develop foreign trade activities in accordance with regulations of law, report and share the information related to foreign trade activities and foreign trade management;

b) The Ministry of Finance shall take charge and cooperate with relevant authorities in formulating and requesting the competent authority to promulgate legislative documents on tax and fees imposed on exports and imports, instruct and inspect the implementation thereof; cooperate with relevant Ministries, ministerial authorities, organizations and individuals in formulating policies related to the trade union management in accordance with regulations of this Law and other relevant regulations of law; direct the customs authority to inspect, supervise and count exports and imports in accordance with regulations on customs;

c) The Ministry of Agriculture and Rural Development shall take charge and cooperate with relevant Ministries, ministerial authorities and organizations and individuals in proposing,

formulating and implementing sanitary or phytosanitary measures, measures for food safety and foreign trade development within its duties and power in accordance with regulations of law;

d) The Ministry of Health shall take charge and cooperate with relevant Ministries, ministerial authorities and organizations and individuals in proposing, formulating and implementing measures for health border quarantine, food safety and the development of foreign trade activities within its duties and power in accordance with regulations of law;

dd) The Ministry of Science and Technology shall take charge and cooperate with relevant Ministries, ministerial authorities and organizations and individuals in proposing, formulating and implementing technical measures within its duties and power in accordance with regulations of law;

4. The local government of each province, within its duties and power, shall:

a) Carry out the task of state administration related to the foreign trade in the province in accordance with regulations of this Law and the assignment of the Government, the Prime Minister, Ministries and ministerial authorities;

b) Take charge and cooperate with relevant organizations and individuals in proposing projects on the development of foreign trade activities in the province;

c) Direct its affiliated authorities to inspect and take action against violations of state administration related to the foreign trade in the province committed by authorities, organizations and individuals.

d) Maintain, update and provide information for information systems related to export and import management and trade promotion;

dd) Carry out or direct its affiliated authorities to carry out the regime for regular report or surprise report to serve tasks of the state administration related to the foreign trade in the province.

#### **Article 7. Prohibited actions in the foreign trade management**

1. Abuse the positions and powers to violate the regulations of law on foreign trade management, obstruct legal export and import activities and violate the rights to export and import of traders prescribed in Article 5 of this Law.

2. Fail to implement measures for foreign trade management within its power or under prescribed procedures.

3. Reveal the secret information of trader illegally.

4. Export or import prohibited or suspended exports and imports, except for the cases specified in Clause 2 Article 10 and Clause 1 Article 14 of this Law; fail to obtain the licenses or satisfy all

conditions in cases of exports or imports requiring licenses or subject to certain conditions; fail to export or import products through the prescribed border checkpoints; fail to go through customs procedures or commit frauds in terms of quantity, volume, types or origin of products when going through customs procedures and fail to stamp products that must have stamps according to regulations of law.

5. Export and import products violating regulations in Clause 2 and Clause 3 Article 5 of this Law.

6. Cheat and counterfeit documents related to the foreign trade management.

## **Chapter II**

### **ADMINISTRATIVE MEASURES**

#### **SECTION 1. THE PROHIBITION OF EXPORT OR IMPORT AND SUSPENSION OF EXPORT OR IMPORT**

##### **Subsection 1. PROHIBITION OF EXPORT AND IMPORT**

###### **Article 8. The prohibition of export and import**

1. Prohibition of export is a measure imposed by the competent authority to prohibit delivering products from domestic markets to customs-controlled areas or out of territory of Vietnam.

2. Prohibition of import is a measure imposed by the competence authority to prohibit delivering products from customs-controlled areas to domestic markets or from other countries to Vietnam.

###### **Article 9. Imposition of the prohibition of export or import**

1. The prohibition of export will be imposed if one of the following conditions is satisfied:

- a) Products to be exported related to national defense and security have not obtained the permission of the competent authority for export;
- b) The prohibition aims to protect relics, antiques and national precious objects in accordance with the law on cultural heritage;
- c) The prohibition of export is imposed according to international treaties to which the Socialist Republic of Vietnam is a signatory.

2. The prohibition of import will be imposed if one of the following conditions is satisfied:

- a) Products to be imported related to national defense and security have not obtained the permission of the competent authority for import;

- b) Products damage the health and safety of customers;
- c) Products affect the social order and safety, social morality and good customs and habits;
- d) Products damage the environment and biodiversity, pose a high risk of obtaining pests, threaten the food security, production and export of Vietnam and infringe intellectual property rights;
- dd) The prohibition of import is imposed according to international treaties to which the Socialist Republic of Vietnam is a signatory.

#### **Article 10. The list of prohibited exports and imports**

1. The list of prohibited exports and imports is made by the Government.
2. The Prime Minister shall allow the export and import of products prescribed in Clause 1 of this Article to for special purposes or for purposes of warranty, analysis, testing, scientific research, medical, pharmaceutical production and national defense and security.
3. The export and import of products included in the list of prohibited exports and imports related to customs-controlled areas shall comply with regulations in Section 8 of this Chapter.

#### **Subsection 2. The suspension of export or import**

##### **Article 11. The suspension of export or import**

1. Suspension of export is a measure imposed by the competence authority to prohibit delivering products from domestic market to customs-controlled areas or out of Vietnam territory for a certain period of time.
2. Suspension of import is a measure imposed by the competence authority to prohibit delivering products from customs-controlled areas to domestic markets or from other countries to Vietnam for a certain period of time.

##### **Article 12. Imposition of the suspension of export or import**

1. The suspension of export will be imposed if:
  - a) Products are subject to the urgent control measure for the foreign trade management prescribed in Chapter V of this Law; or
  - b) Products are mentioned in Article 9 of this Law but have not been included in the list of prohibited exports and imports.
2. The suspension of export or import shall be removed if the period of suspension has expired or the products are no longer mentioned in Clause 1 of this Article.

### **Article 13. The power to impose the suspension of export or import**

1. The Minister of Industry and Trade shall decide the suspension of export or import according to opinions or requests of relevant Ministries and ministerial authorities and take the responsibility for their decisions unless there are other regulations in law on veterinary medicine, plant protection and phytosanitary measures.
2. The Ministry of Industry and Trade shall notify relevant international business entities and countries according to the agreed procedures if the decision on suspension of export or import prescribed in Clause 1 of this Article is issued.

### **Article 14. Exception to the suspension of export or import**

1. The Minister of Industry and Trade shall give permission to export or import the products that have obtained the decision on suspension of export or import for special purposes or purposes warranty, analysis, testing, scientific research, medical, pharmaceutical production and national defense and security according to opinions or requests of relevant Ministries and ministerial authorities and take the responsibility for their decisions unless there are other regulations in law on veterinary medicine, the plant protection and phytosanitary measures.
2. The export and import of products that have obtained the decisions on suspension of export or import related to customs-controlled areas shall comply with regulations in Section 8 of this Chapter.

## **Section 2. EXPORT RESTRICTION AND IMPORT RESTRICTION**

### **Subsection 1. GENERAL PROVISIONS**

### **Article 15. The export restriction and import restriction**

1. Export restriction is a measure imposed by the competent authority aiming to limit the quantity, volume and value of exports, border checkpoints for export and the right to export products of traders.
2. Import restriction is a measure imposed by the competent authority aiming to limit the quantity, volume and value of imports, border checkpoints for import and the right to import products of traders.

### **Article 16. Exception to the export and import restriction**

1. The export and import of restricted products prescribed in this Section for non-commercial purposes shall comply with the relevant regulations of law,
2. The export and import of restricted products prescribed in this Section related to customs-controlled areas shall comply with regulations in Section 8 of this Chapter.



## **Subsection 2. Export and import quotas**

### **Article 17. The export quota and import quota**

1. Export quota is a restriction imposed by the competent authority on the quantity, volume and value of Vietnamese exports.
2. Import quota is a restriction imposed by the competent authority on the quantity, volume and value of imports of Vietnam.

### **Article 18. The imposition of export quotas and import quotas**

1. The export quota and import quota will be imposed if one of the following conditions is satisfied
  - a) The export or import quota is imposed according to international treaties to which the Socialist Republic of Vietnam is a signatory.
  - b) Products are used for ensuring the balance and growth of the economy for certain periods;
  - c) An importing country imposes the import quota on Vietnamese exports.
2. The imposition of export or import quotas shall ensure the transparency of the production and value of products; and the transparency and objectiveness of measures for the allocation of export and import quotas.

### **Article 19. The power to impose export quotas and import quotas**

1. The Minister of Industry and Trade shall take charge and cooperate with relevant Ministries, ministerial authorities, other organizations and individuals in deciding the imposition of export and import quotas.
2. The Ministry of Industry and Trade shall publish products that are subject to export or import quotas.

## **Subsection 3. TARIFF-RATE QUOTAS**

### **Article 20. The export tariff-rate quota and import tariff-rate quota**

1. Export tariff-rate quota is a measure imposed by the competent authority to decide the quantity, volume and value of exports that shall be imposed specific tariff rates.
2. Import tariff-rate quota is a measure imposed by the competent authority to decide the quantity, volume and value of imports within the quota portion that shall be imposed a tariff rate that is more preferential than those above the quota's quantitative threshold.

## **Article 21. The imposition of export tariff-rate quota and import tariff-rate quota**

1. The imposition of export tariff-rate quota and import tariff-rate quota shall comply with international treaties to which the Socialist Republic of Vietnam is a signatory.
2. The import tariff-rate quota shall not be imposed on the quantity, volume and value of products used for the production and processing of exports.
3. The imposition of tariff-rate quotas shall ensure the transparency of the quantity, volume and value of products and the transparency and objectiveness of measures for allocation of export tariff-rate and import tariff-rate quotas.

## **Article 22. The power to impose tariff-rate quotas**

1. Ministers and the heads of ministerial authorities shall decide the amount of tariff-rate quotas imposed on each type of products within their power.
2. The Ministry of Industry and Trade shall publish the imposition of tariff-rate quotas and decide measures for allocation of tariff-rate quotas.

## **Subsection 4. APPOINTMENT OF BORDER CHECKPOINTS FOR EXPORT AND IMPORT**

### **Article 23. The appointment of border checkpoints for export and import**

Appointment of border checkpoints for export or import is a measure imposed by the competent authority to appoint certain border checkpoints through which traders' products may be exported or imported.

### **Article 24. Imposition of appointment of border checkpoints for export and import**

1. The appointment of border checkpoints for export and import aims to manage and inspect the quality of exports and imports, fight against the illegal transshipment and commercial frauds and protect the prestige of Vietnamese exports. The appointment of border checkpoints for export and import shall be conformable with infrastructures and facilities of each border checkpoint and ensure the national defense and security.
2. The appointment of border checkpoints for export and import shall be transparent and equal and facilitate export and import activities.
3. Traders may exercise their discretion to choose the border checkpoints for export or import from appointed border checkpoints.

### **Article 25. The power to appoint border checkpoints for export and import**

1. The Ministry of Industry and Trade shall take charge and cooperate with relevant regulatory authorities in deciding and publishing products and corresponding border checkpoints for export and import and procedures thereof.

2. The decision on the appointment of border checkpoints for export and import shall be published on mass media at least 45 days before the day on which the decision comes into force.

## **Subsection 5. APPOINTMENT OF EXPORTERS AND IMPORTERS**

### **Article 26. The appointment of exporters and importers**

Appointment of exporters and importers is a measure imposed by the competent authority to appoint certain traders that may export or import particular types of products.

### **Article 27. Imposition of the appointment of exporters and importers**

1. The appointment of importers and exporters will be imposed if one of the following conditions is satisfied:

a) This measure is imposed according to international treaties to which the Socialist Republic of Vietnam is a signatory;

b) Products obtain the state monopoly in commercial activities in accordance with the law on trade;

c) Products are subject to urgent control measures for the foreign trade management prescribed in Chapter V of this Law;

2. The appointment of exporters and importers shall be transparent, ensure the rights and interests of the State and traders that are appointed to carry out foreign trade activities.

### **Article 28. The power to appoint exporters and importers**

1. The Government shall make the list of products and conditions for the appointment of exporters and importers and assign Ministries and ministerial authorities to manage products according to the list.

2. Ministers and the heads of ministerial authorities prescribed in Clause 1 of this Article shall appoint exporters and importers within their powers and take the responsibility for the inspection of foreign trade activities carried out by appointed exporters and importers.

## **Section 3. MANAGEMENT THE FOREIGN TRADE VIA LICENSES AND CONDITIONS FOR EXPORT AND IMPORT**

### **Section 29. Management of the foreign trade via licenses and conditions for export and import**

1. Management of the foreign trade via import and export licenses (hereinafter referred to as “license-based management”) is a measure imposed by the competent authority to issue import and export licenses or equivalent forms to traders to export and import products.

2. Management of the foreign trade via conditions for export and import (hereinafter referred to as “condition-based management”) is a measure imposed by the competent authority to define conditions for business entities, types, quantity and volume of products, facilities, techniques, equipment and areas which shall be satisfied by traders in case of export and import for which licenses are not required.

### **Article 30. Imposition license-based managements and condition based-management**

1. The condition-based management will only be imposed if it is necessary for social order and safety, social morality, public health, good customs and environment protection.

2. The license-based management and condition-based management shall be conducted transparently and help to save time and money of regulatory authorities and traders.

3. The license-based management and condition-based management shall comply with international treaties to which the Socialist Republic of Vietnam is a signatory.

### **Article 31. The power to impose license-based management and condition management**

1. The Government shall make the list of exports and imports requiring licenses or subject to certain conditions and define the measures for and scope of the management of Ministers and ministerial authorities related to the products included in the list and procedures for the issuance of export and import licenses.

2. Ministries and ministerial authorities shall publish the list of exports or imports requiring licenses or subject to certain conditions prescribed in Clause 1 of this Article and publish conditions for the export and import of products included in the list.

## **Section 4. CERTIFICATION OF ORIGINS OF PRODUCTS**

### **Article 32. Certification of origins of products**

1. Documents certifying the origin of a product include:

a) A written certificate of origin or other equivalent forms issued to the trader by the competent authority;

b) A self-certification of origin issued by the trader in accordance with regulations in Clause 2 Article 34 of this Law.

2. The Government shall provide detailed regulations on origins of products and certification of origins of products.

### **Article 33. Imposition of certification of origins of products**

The certification of origins of products will be imposed if:

1. An exporter or importer wishes to be entitled to the tariff preference according to international treaties to which the Socialist Republic of Vietnam is a signatory;
2. The export or import in which origins of products shall be certified as prescribed by law; or
3. The certificate of origin is issued by the competent authority at the request of the trader or the trader self-certifies its origins of products in the cases which are not mentioned in Clauses 1 and 2 of this Article.

### **Article 34. The power to impose certification of origins of products**

1. The Minister of Industry and Trade shall issue or authorize other organizations to issue certificates of origin.
2. The Minister of Industry and Trade shall issue written consents to traders self-certifying their origins of products.

### **Section 35. Verification of origins of products**

1. The Ministry of Industry and Trade shall inspect and provide instruction on issuance of certificates of origin and self-certification of origins of products carried out by traders.
2. The Ministry of Finance shall direct the customs authority to verify origins of imports and exports when going through the customs procedures in accordance with regulations of law on customs.

## **Section 5. CERTIFICATION OF FREE SALE**

### **Article 36. Certificates of free sale**

1. Certificate of free sale is a certificate issued to an exporter by the competent authority of the exporting country to certify the free sale of products in the exporting country.
2. Certificates of free sale include certificates that are specialized or contain sufficient contents of a certificate of free sale and other certificates containing equivalent contents.

### **Article 37. Issuance of certificates of free sale**

A certificate of free sale will be issued if:

1. The products need certificates of free sale as prescribed by law;

2. An exporter or importer requests for the issuance of certificate of free sale in the cases that are not mentioned in Clause 1 of this Article.

### **Article 38. The power to issue certificates of free sale**

The Government shall make a list of products that need certificates of free sale and set forth the power and procedures related to the issuance of certificates of free sale.

## **Section 6. OTHER MEASURES FOR FOREIGN TRADE MANAGEMENT**

### **Subsection 1: TEMPORARY IMPORTATION, TEMPORARY EXPORTATION, AND MERCHANTING TRADE**

#### **Article 39. Temporary exportation**

1. A trader that imports products from a foreign country to Vietnam territory or from customs-controlled areas to domestic market and exports these products to other countries or customs-controlled areas shall comply with the following regulations:

a) The trader shall obtain the license for temporary importation if the products to be temporarily imported are included in the list of prohibited or suspended exports and imports or products not be freely sold and used in Vietnam; products subject to export and import quotas, tariff-rate quotas or export or import licenses;

b) The trader shall satisfy prescribed conditions for temporary importation of products subject to certain conditions;

c) The trader will only go through the customs procedures at the customs authority of the border checkpoint if the products are not mentioned in Points a and b of this Article and Article 40 of this Law.

2. Temporary imports shall only be stored in Vietnam for a certain period of time.

3. Temporary imports shall be carried out customs procedures when being imported to Vietnam and under the inspection and supervision of the customs authority until they are re-exported.

4. The withdrawal of temporary imports for domestic consumption shall comply with regulations of law on the import management of this law and other relevant regulations of law.

5. The Government shall provide detailed guidance on this Article.

#### **Article 40. Prohibition and suspension of temporary importation and merchanting trade**

1. The prohibition of temporary importation and merchanting trade shall be imposed on the following products:

- a) Hazardous wastes, scraps and wastes;
  - b) Products that are prohibited from the temporary importation or merchanting trade according to international treaties to which the Socialist Republic of Vietnam is a signatory;
  - c) Products that have been used and can raise the commercial fraud;
  - d) Products that pose a high risk of environmental pollution, epidemics and effects on human health and life.
2. The Government shall provide detailed regulations on the list of products prohibited from temporary import and merchanting trade.
3. In order to prevent environmental pollution, epidemics, effects on human health or life, illegal transshipment and the risk of commercial fraud, the Minister of Industry and Trade shall decide to publish products subject to the suspension of temporary importation and merchanting trade.

#### **Article 41. Other forms of temporary importation**

1. Except for the temporary importations prescribed in Article 39 of this Law, a trader may import temporarily products that are not included in the list of prohibited exports and imports; products that are suspended from export or import according to the contract with a foreign country to maintain, rent, lend or use these products for another purposes for a certain period of time and re-export these products from Vietnam.
2. Procedures for the temporary importation:
- a) A trader shall obtain the license for temporary importation if products have not been freely sold and used in Vietnam or are subject to export and import quotas, tariff-rate quotas or export or import licenses;
  - b) A trader will only go through procedures for temporary importation at the customs authority if products are not mentioned in Points a of this Article.
3. The time limit for temporary importation shall comply with the agreement between the trader and the partner and be registered at the customs authority's premises where procedures for temporary importation are gone through.
4. If temporary imports are withdrawn for domestic consumption, they shall comply with regulations of law on the import management prescribed in this law and other relevant regulations of law.
5. The Government shall provide detailed guidance on this Article.

#### **Article 42. Temporary exportation**

1. A trader may temporarily export products for purposes of maintenance, repair, production, operation, renting, borrowing, display, exhibition, or for other purposes according to the contract with the foreign partner

2. Procedures for the temporary exportation:

a) A trader shall obtain the license for temporary exportation if the products to be temporarily exported are included in the list of prohibited or suspended exports and imports, have not been sold freely and used in Vietnam or are subject to export and import quotas, tariff-rate quotas or export or import licenses;

b) The trader will only go through the procedures for temporary exportation at the customs authority if the products are not mentioned in Points a of this Article.

3. The time limit for temporary exportation shall comply with the agreement between the trader and the partner and be registered at the customs authority where procedures for temporary exportation are gone through.

4. If the temporary exports are withdrawn for overseas consumption, they shall comply with regulations of law on export management prescribed in this law and other relevant regulations of law.

5. The Government shall provide detailed guidance on this Article.

#### **Article 43. Merchanting trade**

1. A trader that conducts merchanting trade of products that are included in the list of prohibited or suspended exports and imports, have not been sold freely and used in Vietnam or are subject to export and import quotas, tariff-rate quotas or export and import licenses shall obtain the license for merchanting trade of products, except for the merchanting trade transactions that are carried out without going through any border checkpoint of Vietnam.

2. The trader will only go through the procedures for merchanting trade at the customs authority if the products are not mentioned in Clause 1 of this Article.

3. Products under merchanting trade transactions that are passed through a border checkpoint of Vietnam shall be subject to the inspection and supervision of the customs authority until they are exported actually out of the Vietnam territory.

4. The Government shall provide detailed guidance on this Article.

#### **Subsection 2. TRANSIT OF PRODUCTS**

##### **Article 44. Permission for transit of products**



1. The Ministry of Industry and Trade shall take charge and cooperate with the Ministry of Public Security and Ministry of National Defense in requesting the Prime Minister to consider giving permission for the transit of products that are weapons, explosive materials, explosive pre-substances and support tools.

2. The Minister of Industry and Trade shall issue the license for transit of products that are included in the list of prohibited or suspended exports and imports or products prohibited from trading in accordance with regulations of law.

3. Products that are not mentioned in Clauses 1 and 2 of this Article may be transited through the territory of Vietnam and only be gone through customs procedures at the first import border checkpoint and the last export border checkpoint in accordance with regulations of law on customs.

4. The Government shall provide detailed regulations on procedures for the issuance of license for transit of products prescribed in Clauses 1 and 2 of this Clause.

#### **Article 45. Principles for the management of transit of products**

1. Exports that are transited shall be the entire imports.

2. Foreign organizations or individuals that use the transit service, transit products themselves or hire foreign traders to transit the products through the territory of Vietnam shall comply with regulations of law on commerce and international treaties to which the Socialist Republic of Vietnam is a signatory and regulations of Vietnam law on exit, entry and transport.

3. The transit of products by air shall comply with regulations of international treaties to which the Socialist Republic of Vietnam is a signatory;

4. Products that are transited through the territory of Vietnam shall be subject to the supervision of the customs authority during the period of transit, entry and exit through prescribed border checkpoints.

5. The domestic consumption of products in transit shall comply with regulations of law on the management of imports prescribed in this law and other relevant regulations of law.

#### **Article 46. Border checkpoints and routes for the transit of products**

1. According to international treaties to which the Socialist Republic of Vietnam is a signatory, the Minister of Transport shall prescribe the routes used for transport of transited products.

2. Products shall only be transited through international border checkpoints and according to routes in the territory of Vietnam as prescribed in Clause 1 of this Article.

3. During the period of transit, any change in routes for the transit of products shall obtain the permission of the Minister of Transport.

## **Article 47. The period of transit**

1. The period of transit through the territory of Vietnam is 30 days or less from the days on which the customs procedures at the import border checkpoint are completed, unless the period is extended or the products are stored in Vietnam, damaged or lost or transit vehicles are broken down during the period of transit.
2. If the products that are stored in Vietnam, damaged or lost or transit vehicles are broken down during the period of transit and it needs more time to store and repair the damage and losses of products, the period of transit will be extended for proper period of time for carrying out the abovementioned work and allowed by the customs authority's premises where transit procedures are gone through. The period of transit of products prescribed in Clauses 1 and 2 Article 44 of this Law shall obtain the permission of the Minister of Industry and Trade.
3. During the period of storage and repair of damage and losses prescribed in Clause 2 of this Article, products and transit vehicles shall be subject to the supervision of the customs authority.

## **Subsection 3. PURCHASING AGENTS OF FOREIGN TRADERS**

### **Article 48. Management of purchasing agents' activities of foreign traders**

1. A trader may be a legal purchasing agent of foreign traders, except for the products that are included in the list of prohibited exports and imports or suspended imports.
2. If the purchasing agent is given its pay in money, the payment shall comply with regulations of law on foreign exchange. If the purchasing agent is given its pay in products, these products shall not be included in the list of prohibited or suspended exports and imports. If the purchasing agent is given its pay in products that are included in the list of exports or imports requiring licenses, this payment shall obtain the permission of the competent authority.
3. Purchasing agents of foreign traders shall go through procedures for export and import and fulfill taxes and other financial obligations in accordance with regulations of law.

### **Article 49. Management of the employment of foreign traders to work as overseas purchasing agents**

A trader may employ a foreign trader to work as its overseas purchasing agent, except for the products that are included in the list of prohibited exports and imports or suspended imports.

## **Subsection 4. ENTRUSTMENT OF EXPORT AND IMPORT**

### **Article 50. Management of the entrustment of export and import**

1. A trader may entrust the export or import of products that are not included in the list of prohibited or suspended exports and imports.

2. If exports or imports require licenses or are subject to certain conditions, the entrusting party or entrusted party shall obtain the license or satisfy conditions for export or import before the entrustment agreement is signed, unless there are other regulations of law.

3. If an entrusting party is not a trader, based on the contract signed in accordance with regulations of law, the entrusting party may have its export or import entrusted, except for the products that are included in the list of prohibited or suspended exports and imports.

## **Subsection 5. PROCESSING OF PRODUCTS OF FOREIGN TRADERS AND THE OUTSOURCING OF THE OVERSEAS PROCESSING OF PRODUCTS**

### **Article 51. Management of the processing of products of foreign traders**

1. A trader may process legal products of foreign traders, except for products that are included in the list of prohibited or suspended exports and imports.

2. If imports and exports require licenses, the trader will only sign the processing contract after being licensed by the Minister of Industry and Trade in accordance with procedures prescribed by the Government.

3. The Prime Minister shall decide to allow traders to process products that are included in the list of the list of prohibited or suspended exports and imports of foreign traders to have them sold overseas.

### **Article 52. Management of the outsourcing of overseas processing of products**

1. A trader may outsource the processing of legal products.

2. The export of machinery, equipment, materials and auxiliary materials for the processing and the import of processed products shall comply with regulations on export and import management of this Law and other relevant regulations of law.

3. Traders shall fulfill their tax obligations related to the import of processed products for the domestic consumption in accordance with regulations of law on tax.

## **Section 7. FOREIGN TRADE WITH NEIGHBORING COUNTRIES**

### **Article 53. MANAGEMENT OF THE FOREIGN TRADE WITH NEIGHBORING COUNTRIES**

1. The foreign trade with neighboring countries of Vietnam in bordering areas (hereinafter referred to as “border trade”) shall be managed by:

a) Regulations on products, the quantity of products, the limit for tax exemption, places and measures related to the purchase, sale and exchange of products by inhabitants of bordering areas;

b) Regulations on products, places, measures and the assistance related to the purchase, sale and exchange of products by traders that have been agreed in the international treaties between the Socialist Republic of Vietnam and neighboring countries.

2. Principles of the management of the border trade include:

a) The State shall intensify the assistance and promote the autonomy right of local governments of border areas related to the organization and management of the border trade in order to facilitate the purchase, sale and exchange of products by traders and inhabitants of bordering areas;

b) People, vehicles and products related to the border trade shall be subject to the inspection and control of the competent authority in accordance with regulations of law;

c) Violations of regulations of commercial law and other relevant regulations of law shall be prevented and dealt with strictly.

3. Border trade activities are entitled to the specialized policies on areas, products, fees and payment measures in accordance with regulations of law.

4. The Government shall provide detailed guidance on this Article.

#### **Article 54. Management of the border trade conducted at land border checkpoints**

1. The border trade shall be conducted through international border checkpoints and principal border checkpoints. If the border trade is conducted through other border checkpoints or places opened for crossing borders, it shall satisfy prescribed conditions and be subject to the supervision and management of competent authorities in accordance with regulations of international treaties to which the Socialist Republic of Vietnam is a signatory and relevant regulations of law.

2. The People's Committee of the bordering province shall decide to publish the list of other border checkpoints and places opened for crossing borders where the border trade prescribed in Clause 1 of this Article may be conducted. If the export or import of products in the abovementioned areas is jammed, the People's Committee of the bordering province, based on the infrastructure of these areas, may implement the measure for giving the priority to the export of fresh foods and perishable agricultural products or suspending the export and import until there is no jam.

3. The management of the export and import of products at the land border checkpoints shall be conducted consistently, synchronously, cooperate closely and simplify the administrative procedures.

4. The Government shall provide detailed guidance on this Article.

## **Article 55. Policies on management and development of activities providing the assistance in the border trade conducted at land border checkpoints**

1. Ministries, ministerial authorities and local governments shall take the responsibility for the management and development of the following activities at the land border checkpoints:

a) Provide the assistance in going through administrative procedures in accordance with relevant regulations of law.

b) Provide the assistance in strengthening the commercial logistics capacity including forwarding, shipping, processing, packaging, load, translation, protection of products and other activities strengthening the commercial logistics capacity;

c) Carry out activities related to finance and currency including change of money, depositing of money and payment;

d) Provide the assistance in strengthening the capacity for expansion into the markets of neighboring countries by providing assistance in consultancy, brokerage, purchasing and selling agents, entrustment of export and import, merchanting trade, advertisements, fairs and exhibitions;

dd) Provide the assistance in the infrastructure including roads, electricity, water, border markets, showrooms, warehouses, electronic weighing stations and fire safety;

e) Provide other aids related to border trade conducted at the border checkpoints in accordance with regulations of law.

2. The Government shall formulate the policy on encouraging traders of all economic sectors to invest in, develop and carry out activities of the assistance in the border trade conducted at the border checkpoints prescribed in Clause 1 of this Law.

## **Section 8. MANAGEMENT OF PRODUCTS OF CUSTOMS-CONTROLLED AREAS**

### **Article 56. Management of exports of customs-controlled areas**

1. The imposition of measures for foreign trade management of products that are exported from customs-controlled areas to other countries is the same as those of products that are exported from domestic market to other countries.

2. Measures for foreign trade management shall not be imposed on products that are delivered from the domestic market to customs-controlled areas.

3. Measures for management of exports of customs-controlled areas shall be imposed only once.

4. The products prescribed in Clause 2 of this Article shall be subject to the supervision of the customs authority in accordance with regulations of law on customs and other relevant regulations of law.

#### **Article 57. Management of imports of customs-controlled areas**

1. The imposition of measures for foreign trade management of products that are delivered from customs-controlled areas to the domestic market is the same as those of products that are imported from other countries to the domestic market.

2. Measures for foreign trade management, except for the prohibition or suspension of import and quarantine measures, shall not be imposed on products that are delivered from foreign countries to customs-controlled areas.

3. The measure for management of imports of customs-controlled areas shall be imposed only once.

4. The products prescribed in Clause 2 of this Article shall be subject to the supervision of the customs authority in accordance with regulations of law on customs and other relevant regulations of law.

#### **Article 58. Management of purchase and sale of products between customs-controlled areas**

1. Measures for foreign trade management shall not be imposed on products that are purchased, sold and transported between customs-controlled areas in the territory of Vietnam.

2. The transport of products between customs-controlled areas shall be subject to the supervision of the customs authority in accordance with regulations of law on customs and other relevant regulations of law.

#### **Article 59. Exception**

To prevent the commercial fraud and illegal transshipment, the Prime Minister shall allow whether one or several measures for the foreign trade management of products prescribed in Articles 56, 57 and 58 of this Law is imposed.

### **Chapter III**

## **TECHNICAL AND QUARANTINE MEASURES**

### **Section 1. IMPOSITION OF TECHNICAL AND QUARANTINE MEASURES**

#### **Article 60. Objectives and principles of technical and quarantine measures**

1. The imposition of technical and quarantine measures aims to ensure the quality of products and the safety of human health; protect animals, plants, ecological environment and biodiversity; prevent epidemics and ensure the national security and interests.

2. The imposition of technical and quarantine measures shall comply with the following principles:

a) The imposition shall be transparent, not discriminate and avoid creating unnecessary barriers to foreign trade activities, especially to exports;

b) Measures for risk management shall be imposed within the allowable conditions and in accordance with the management requirements and international treaties to which the Socialist Republic of Vietnam is a signatory.

c) The imposition shall ensure other principles in accordance with regulations of law on the quality of products, products, technical standards and regulations, food safety, measurements, phytosanitary measures and plant protection, veterinary medicine and prevention of infections.

#### **Article 61. The imposition of technical measures on imports and exports**

1. Exports and imports shall have their applied standards published and be labeled in accordance with regulations of law.

2. Imports that are included in the list of goods and products and can cause the unsafely shall be managed in accordance with corresponding technical standards and other management measures as prescribed in regulations of law on the quality of products, products and technical standards and regulations.

3. Imports that are processed or pre-packaged food, food additives, food processing aids, tools and materials for packaging and containing food that have obtained technical regulations shall comply with regulations in Clause 2 of this Article.

4. Imports that are foods, food additives, food processing aids or tools and materials for packaging food that have not obtained technical regulations shall be published in accordance with regulations on food safety and have the publishing registered with the competent authority in accordance with regulations on food safety.

5. Exports and imports that are functional food, micronutrient-enhancing food, genetically modified food or irradiated food shall obtain the certificates of free sale or health certificates in accordance with regulations of law.

6. Imports that are means of measurement used for quantifying products and services in purchase, sale, payment, assurance of safety, protection of public health, environmental protection, inspection, judicial expertise and other official activities shall be controlled when being imported in accordance with regulations of law on measurement.

7. Procedures for the imposition of technical measures on exports and imports shall comply with regulations of law on the quality of products and products, technical standards and regulations, food safety and measurement.

#### **Article 62. The imposition of sanitary measures on animals and animal products**

1. Animals or animal products that shall be subject to sanitary measures before they are exported, imported, temporarily imported, re-exported, temporarily exported, re-imported, transferred from a border checkpoint to another one, sent to the bonded warehouses or transited through the territory of Vietnam shall be quarantined in accordance with regulations of law on animal health.

2. Contents of and procedures for the imposition of sanitary measures on animals and animal products before that are exported, imported, temporarily imported, re-exported, temporarily exported, re-imported, transferred from a border checkpoint to another one, sent to the bonded warehouses or transited through the territory of Vietnam shall comply with regulations of law on animal health.

#### **Article 63. The imposition of phytosanitary measures**

1. Products subject to phytosanitary measures before being exported, imported, temporarily imported, re-exported, temporarily exported, re-imported, transferred from a border checkpoint to another one, sent to the bonded warehouses or transited through the territory of Vietnam shall be carried out the phytosanitary measures in accordance with regulations of law on plant protection and phytosanitary measures.

2. Plant varieties which are not included in the list of plant varieties that may be produced and traded in Vietnam or useful organisms used for plant protection in Vietnam shall be quarantined at the isolation zones after being imported.

3. Contents and procedures for the imposition of phytosanitary measures on products that are exported, imported, temporarily imported, re-exported, temporarily exported, re-imported, transferred from a border checkpoint to another one, sent to bonded warehouses or transited through the territory of Vietnam shall comply with regulations of plant protection and phytosanitary measures.

#### **Article 64. The imposition of the measure of border health quarantine**

1. Products subject to the border health quarantine before being exported, imported or transited through the territory of Vietnam shall be quarantined in accordance with regulations of law on prevention and control of infections.

2. Procedures for border health quarantine shall comply with regulations of law on prevention and control of infections.

### **Section 2. INSPECTION OF EXPORTS AND imports**



## **Article 65. Exports and imports subject to the inspection**

1. Exports and imports subject to the inspection include:

- a) Products that are subject to technical and quarantine measures prescribed in Articles 61, 62, 63 and 64 of this Law.
- b) Products that can pose risks of unsafe situation or cause the unsafe situation according to the information warned by international, regional or foreign organizations;
- c) Unconformable products which are discovered by the competent authority and shall be inspected in accordance with regulations of law.

2. Products prescribed in Clause 1 of this Article shall be inspected according to the principles prescribed in Clause 2 of Article 60 and the inspection is carried out by authorities and organizations that are appointed by the competent authorities.

3. Ministers and the Heads of ministerial authorities, within their duties and power, shall make a list of products that shall be inspected as prescribed in Clause 1 of this Article.

## **Article 66. Inspecting authorities and organizations**

1. Ministries, ministerial authorities and People's Committees of provinces shall carry out the inspection within their assigned domains and areas in accordance with regulations of law.

2. Ministries, ministerial authorities and People's Committees of provinces prescribed in Clause 1 of this Article shall publish names and addresses of specialized inspecting authorities and organizations related to the domains and areas under their management.

3. Procedures for the inspection shall be published transparently by the inspecting authorities and organizations.

## **Chapter IV**

### **TRADE REMEDIES**

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

## **Article 67. Trade remedies**

1. Trade remedies include anti-dumping measure, countervailing measure and safeguard measure that are imposed on imports of Vietnam by the Minister of Industry and Trade in each specific case.

2. The Government shall provide detailed regulations on determining the injury to domestic industry; taking action against evasion of trade remedies; bases for the conduction, procedures,

time limit, contents and bases for the termination of trade remedy investigation (hereinafter referred to as “investigation”); the imposition and review of trade remedies; determining subsidies and countervailing measures; the responsibility for cooperating of relevant authorities during the investigation and dealing with the trade remedies imposed on the Vietnamese exports.

3. The Minister of Industry and Trade shall provide detailed regulations on interested parties of investigated cases, the provision of information, documents and information security; language used during the investigation; the management of imports subject to the investigation, trade remedies and the exemption from trade remedies.

#### **Article 68. Principles for the imposition of trade remedies**

1. The trade remedies shall only be imposed within the reasonable scope and level for a certain period of time to protect domestic industry, prevent or limit the injury to it.

2. The trade remedies shall only be imposed after the investigation is carried out transparently and fairly in accordance with regulations of law and based on determinations of the investigation.

3. Decisions on the investigation and the imposition of trade remedies shall be published.

4. If the duty rate of an official trade remedy is higher than those of a provisional trade remedy, the difference of duty will not be collected.

5. If the duty rate of an official trade remedy is lower than those of the provisional trade remedy, the difference of duty will be returned.

6. If the Minister of Industry and Trade does not impose an official trade remedy, the duty of provisional trade remedy that has been collected or the amount for ensuring the payment of temporary trade remedy duties shall be returned.

#### **Article 69. Injury to domestic industry**

1. Domestic industry refers to the producers as a whole of the like products within the territory of Vietnam or those whose collective output of the like products constitutes a major proportion of domestic production of those products. If a domestic producer directly import a product under consideration or related to exporters or importers of product under consideration, this producer will not be considered as a domestic producer.

“like product” refers to a product alike in all aspects to the product under consideration, or, in the absence of such a product, another product which, though not alike in all respects, have characteristics closely resembling those of the product under consideration.

2. The injury to domestic industry shall be determined as follows:

- a) Material injury to domestic industry means a material impairment in or the inhibition of the growth of production and business activities of domestic industry;
- b) Threat of material injury to domestic industry means a situation in which the material injury to domestic industry is clearly imminent.
- c) Material retardation of establishment of a domestic industry is a situation that creates difficulty in establishing a domestic industry;
- d) Serious injury means a significant overall impairment in the position of a domestic industry;
- dd) Threat of serious injury to domestic industry means a situation in which the serious injury to domestic industry is clearly imminent.

#### **Article 70. Procedures for trade remedy investigations**

1. An organizations or individual representing a domestic industry may submit a request for applying the trade remedy if it is found that the domestic industry is injured caused by dumping on imports, import subsidies or a surge in imports.
2. Within 45 days from the day on which the valid application is notified, the Minister of Industry and Trade shall decide whether the investigation is conducted according to the authority investigating trade remedies (hereinafter referred to as “investigating authority”). In some special cases, the time limit for the issuance of decision may receive a possible extension up to 30 days.
3. The time limit for the investigation is specified as follows:
  - a) Anti-dumping and countervailing investigations shall be completed in 12 months from the day on which the decision on investigation is issued. In some special cases, the Minister of Industry and Trade may extent the time limit for investigation but the total time limit shall be 18 months;
  - b) The safeguard investigation shall be completed in 09 months from the day on which the decision on investigation is issued. In some special cases, the Minister of Industry and Trade may extent the time limit for investigation but the total time limit shall be 12 months;
4. The consultation during the investigation shall be carried out as follows:
  - a) During the investigation, interested parties of the investigated case (hereinafter referred to as “interested party”) may send the investigating authority the information and opinions related to the cases in writing;
  - b) The inspecting authority shall give an opportunity to interested parties for the consultation in case of the written request as prescribed in Point a of this Clause;

c) Before the final determination of investigation is disclosed, the investigating authority can organize the public consultation in manner that interested parties can present information and opinions related to the case.

5. The responsibility for the notification is specified as follows:

a) Within 15 days from the day on which the Minister of Industry and Trade issues the decision on anti-dumping or countervailing investigation, the investigating authority shall notify the Governments of the countries of relevant producers and exporters and other interested parties of the investigation;

b) The investigating authority shall give a public notice of the preliminary determination and final determination of the investigation, the acceptance of price undertakings and the termination of the investigation to interested parties.

c) The investigating authority shall fulfill other notification obligations according to regulations of international treaties to which the Socialist Republic of Vietnam is a signatory;

#### **Article 71. Termination of trade remedy investigations**

The Minister of Industry and Trade shall decide to terminate the investigation in the following cases:

1. The applicant voluntarily withdraws the application;

2. The preliminary determination of the investigating authority shows that there is no injury or threat of injury to the domestic industry or material retardation of establishment of the domestic industry;

3. The final determination of the investigating authority obtains one of the following contents:

a) The product under consideration imported to Vietnam is not dumped, subsidized or imported excessively;

b) There is no injury to the domestic industry prescribed in Clause 2 of Article 69 of this Law;

c) There is no objective evidence of the existence of a causal link between the dumping on imports, import subsidies and the surge of imports and the injury or threat of injury to domestic industry or the material retardation of the establishment of the domestic industry;

4. The investigating authority reaches an agreement with the competent authority of the country which is accused of granting subsidies to its products imported to Vietnam on removing the abovementioned subsidies.

#### **Article 72. Prevention of the evasion of trade remedies**

1. Evasion of trade remedies means actions aiming to evade partial or total obligations to enforce the valid trade remedy imposed on products subject to these measures when being imported to Vietnam.
2. The trade remedy being imposed will be expanded if the investigating authority discovers the evasion of trade remedy.
3. The investigating authority can carry out the investigation into the evasion of trade remedy at the requests of representatives of domestic industry or the information which is collected by the investigating authority.
4. According to the determination of the investigating authority, the Minister of Industry and Trade shall issue a decision on prevention of the evasion of trade remedies applied to products or parts of products imported from relevant countries under consideration.

### **Article 73. Investigating authorities**

1. The investigating authority is established by the Government and affiliated to the Ministry of Industry and Trade.
2. The investigating authority shall have the following responsibilities and powers:
  - a) Receive applications for trade remedy investigation from applicants and notify them of necessary addition to their applications;
  - b) Request the Minister of Industry and Trade to decide whether the trade remedy investigation is conducted;
  - c) Conduct the trade remedy investigation and the investigation into the evasion of trade remedy;
  - d) Request the Minister of Industry and Trade to decide to impose the trade remedies; impose the prevention of evasion of trade remedies and change the trade remedies according to determinations of the investigation and review;
  - dd) Conduct the review of trade remedies;
  - e) Request the Minister of Industry and Trade to terminate the investigation or withdraw the trade remedies;
  - g) Take charge of dealing with bilateral or multilateral disputes related to the trade remedy investigation into the imports of Vietnam and Vietnamese exports that are under the trade remedy investigation of the foreign country;
  - g) Take charge of dealing with bilateral or multilateral disputes related to the trade remedy investigation into the imports of Vietnam and Vietnamese exports that are under the trade remedy investigation of the foreign country;

i) Take charge of formulating measures and negotiate the compensation in the case of trade remedy investigation into the imports of Vietnam;

k) Inspect the implementation of trade remedies of organizations and individuals related to the investigation and imposition of trade remedies;

l) Other duties and powers in accordance with regulations of law.

3. The head of the investigating authority who is appointed and dismissed by the Minister of Industry and Trade shall organize and direct the investigating authority to fulfill the duties and exercise the powers prescribed in Clause 2 of this Article.

4. The Minister of Industry and Trade shall provide detailed regulations on the responsibilities, power and organizational structure of the investigating authority.

#### **Article 74. Interested parties in investigation**

1. Interested parties include:

a) Overseas organizations and individuals that produce and export products under consideration to Vietnam;

b) Importers of products under consideration;

c) Foreign associations whose majority of members are organizations and individuals producing and exporting products under consideration;

d) The Government and competent authorities of the exporting country of product under consideration;

dd) Organizations and individuals that submit the application for the trade remedies;

e) Domestic producers of like products;

g) Domestic associations whose majority of members are producers of like products;

h) Other organizations and individuals that obtain legal rights and interests related to the investigated cases or facilitate the investigation or representative organizations of protection of customer rights.

2. An organization or individual shall register and be approved by the investigating authority to become an interested party.

3. An interested party may use the information provided by the other interested parties, except for the information and documents prescribed in Clause 2 Article 75 of this Law.

## **Article 75. Provision and collection of information and documents and the security during the trade remedy investigation**

1. Interested parties shall provide necessary information and documents at the request of the investigating authority.
2. During the investigation, the investigating authority and subjects that are entitled to use information and documents related to the case shall ensure the information security at the request of providers of information and documents.
3. The investigating authority may offer the assessment or verify the information and documents provided by interested parties or collect more necessary information and documents to deal with the trade remedy case. The investigating authority may conduct the site investigation including overseas investigation.
4. If the investigated subject prevent the investigating authority from accessing to information or refuse to provide information and documents that are important for the investigation, the investigating authority may use the information and documents provided by the interested parties, those collected by the investigating authority or existing information and documents to lead to the conclusion.

## **Article 76. Dealing with cases in which the Vietnamese exports are subject to trade remedy investigation**

1. If a Vietnamese trader is subject to trade remedy investigation, at the request of the relevant association or trader, the Ministry of Industry and Trade will take charge and cooperate with Ministries, ministerial authorities and competent authorities in the provision of the following assistance for the trader within its duties and powers:
  - a) Provide the information related to the case;
  - b) Negotiate with the import country that is conducting the trade remedy investigation into Vietnamese exports;
  - c) Sue the import country for the violations of relevant international treaties to which the Socialist Republic of Vietnam is a signatory if any;
  - d) Provide other aids in accordance with regulations of law.
2. If a Vietnamese trader is subject to countervailing duty investigation of the import country, the Ministry of Industry and Trade will take charge and cooperate with Ministries, ministerial authorities and People's Committee of the province in formulating the measure for the cooperation with the foreign investigating authority in accordance with regulations of international treaties to which the Socialist Republic of Vietnam is a signatory.

3. If a Vietnamese trader is subject to safeguard investigation of the import country, the Ministry of Industry and Trade will take charge and cooperate with relevant Ministries, ministerial and organizations and individuals in formulating the measure for requesting the compensation and taking retaliatory actions in accordance with regulations of international treaties to which the Socialist Republic of Vietnam is a signatory.

## **Section 2. ANTI-DUMPING MEASURES IMPOSED ON imports OF VIETNAM**

### **Article 77. Anti-dumping measures**

1. Anti-dumping measure imposed on imports of Vietnam (hereinafter referred to as “anti-dumping measure”) is a measure imposed on products that are dumped when being imported to Vietnam, which causes material injury or threaten to cause material injury to domestic industry or retard the establishment of the domestic industry.

2. A product that is determined as dumped if price of this product imported to Vietnam is less than the comparable price of its like products sold in the exporting country or third country under the common commercial conditions or the price that is self-calculated by the investigating authority.

3. Anti-dumping measures include:

a) Imposition of anti-dumping duty;

b) Undertakings to implement measures for removing the dumping carried out by organizations and individuals producing and exporting products subject to the anti-dumping measures with the investigating authority of Vietnam or domestic producers in case of the approval of the investigating authority.

### **Article 78. Conditions for the application of anti-dumping measures**

1. Anti-dumping measures will be applied if all following conditions are satisfied:

a) Imports of Vietnam are dumped with specific dumping margins, except for the case prescribed in Clause 2 of this Law;

b) There is material injury or threat of material injury to the domestic industry or material retardation of establishment of the domestic industry;

c) There is the existence of a causal link between the dumping on imports and injury to the domestic industry prescribed in Point b of this Clause.

2. The anti-dumping measure shall not be imposed on a product whose dumping margin is not more than 2 % of its export price.



3. If the production of imports that originate in a country accounts for not more than 3% of the total production of their imports of like products to Vietnam and the total production of products that originate in countries satisfying the abovementioned conditions accounts for 7% or less of the total production of their imports of like products to Vietnam, these countries will be exempt from anti-dumping measures.

#### **Article 79. Bases for conducting anti-dumping investigations**

1. The anti-dumping investigation will be conducted if an organizations or individual representing the domestic industry submit an application for the anti-dumping measures.

2. The application shall be considered to have been made on behalf of the domestic industry if the following conditions are satisfied:

a) The total production of like products produced by the applicant(s) and domestic producers supporting the application is greater than those produced by domestic producers that object to the application;

b) The total production of like products produced by the applicant(s) and domestic producers supporting the application accounts for at least 25% of total production of like products produced by the domestic industry.

3. The Minister of Industry and Trade shall decide the investigation if there is obvious evidence that the import of dumped products causes the material injury or threat of material injury to the domestic industry or retard the establishment of the domestic industry;

#### **Article 80. Contents of an anti-dumping investigation**

1. Determine dumped products imported to Vietnam and the dumping margin, including:

a) Determine the comparable price;

b) Determine the prices of exports;

c) Make an equal comparison between the comparable price and the export price and determine the specific dumping margin of product under consideration for each organization or individual producing and exporting the products under consideration (hereinafter referred to as "producer and exporter).

2. Determine the material injury or threat of material injury to the domestic industry or the material retardation of establishment of the domestic industry;

3. Determine the causal link between the import of dumped products and the material injury or threat of material injury to the domestic industry or the material retardation of establishment of the domestic industry.

4. Determine impacts of anti-dumping measures on the economy and society.

### **Article 81. Imposition of anti-dumping measures**

1. The imposition of provisional anti-dumping duty is decided by the Minister of Industry and Trade according to the preliminary determination provided by the investigating authority. The rate of provisional anti-dumping duty shall not exceed the dumping margin defined in the preliminary determination.

The provisional anti-dumping duty shall be imposed within 120 days from the days on which the decision on imposition of anti-dumping duty comes into force. In case of the request of an exporter of like products exported to Vietnam, the Minister of Industry and Trade will give an extension of provisional anti-dumping duty up to 60 days.

2. The price undertaking measure shall be imposed as follows:

a) After the preliminary determination is reached and before the investigation finishes, the producer and exporter of products under consideration can make an price undertaking with the investigating authority on voluntary adjustments to the sale price or voluntary restriction of the production of products under consideration exported to Vietnam;

b) The investigating authority can accept or refuse the price undertaking or request the adjustments to contents of the price undertaking based on opinions of the representative of the domestic industry.

3. The anti-dumping duty shall be imposed as follows:

a) If the price undertaking prescribed in Clause 2 of this Clause is not made, after the investigation finishes, the investigating authority will publish the final determination related to the contents of the investigation prescribed in Article 80 of this Law. The final determination provided by the investigating authority and main bases thereof shall be notified to relevant parties of the case via appropriate measures.

b) According to the final determination of the investigating authority, the Minister of Industry and Trade shall decide whether the anti-dumping duty is imposed;

c) The rate of the anti-dumping duty shall not exceed the dumping margin defined in the final determination;

d) The maximum duration of anti-dumping duty is 05 years from the day on which the decision on imposition of anti-dumping duty comes into force, unless it is extended as prescribed in Clause 2 Article 82 of this Law.

4. The retroactivity of the anti-dumping duty shall be specified as follows:

a) If the final determination of the investigating authority show that there is material injury or threat of material injury to the domestic industry, the Minister of Industry and Trade will make a decision on the retroactive imposition of the anti-dumping duty;

b) The anti-dumping duty will be imposed retroactively on imports within 90 days before the provisional anti-dumping duty is imposed if the imports are determined to be dumped and the volume or quantity of dumped products imported to Vietnam rise sharply in the period from the date of the investigation to the date of imposition of provisional anti-dumping duties causing the injury which is difficult to be repaired to the domestic industry.

## **Article 82. Review of the imposition of anti-dumping measures**

1. The review upon the request of interested parties shall be carried out as follows:

a) After 1 year from the day on which the decision on imposition of anti-dumping measures is issued, the Minister of Industry and Trade may decide to review anti-dumping measures at the request of one or multiple interested parties and evidence provided by them;

b) Procedures for the review shall not obstruct the imposition of anti-dumping measures in force;

c) The time limit for the review is 06 months from the day on which the decision on review is issued, with a possible extension up to 3 months if necessary.

2. The final review shall be carried out as follows:

a) Within 1 year before the expiry date of anti-dumping measures, the Minister of Industry and Trade shall decide to carry out the final review of the imposition of anti-dumping measures;

b) The review aims to determine the necessity, reasonableness and socio-economic impacts of the continuity of imposition of anti-dumping measures;

c) According to the result of review provided by the investigating authority, the Minister of Industry and Trade shall decide whether to grant an extension of anti-dumping measures;

d) The time limit for the final review is 09 months from the day on which the decision on review is issued, with a possible extension up to 03 months if necessary.

3. The review applied to a foreign producer or exporter that do not export the products under consideration to Vietnam in the beginning of investigation but subsequently export such products to Vietnam (hereinafter referred to as “new exporter”) shall be carried out as follows:

a) The new exporter may submit an application to the investigating authority to request for the review and determination of the particular rate of the anti-dumping duty;

b) According to results of the review given by the investigating authority, the Minister of Industry and Trade shall decide to impose the particular rate of anti-dumping duty on the new exporter under review;

c) The time limit for the review applied to new exporters is 03 months from the day on which the decision on review is issued, with a possible extension up to 03 months if necessary.

4. The review of the scope of products subject to anti-dumping measures shall be carried out as follows:

Interested parties can request the investigating authority to review the scope of products subject to anti-dumping measures;

b) An application for the review shall include evidence and information proving that the imposition of anti-dumping measures on the entire products is not reasonable;

c) According to the determination of the review given by the investigating authority, the Minister of Industry and Trade shall decide the adjustments to the scope of products that are subject to the anti-dumping measures;

c) The time limit for the review of products subject to the anti-dumping measure is 06 months from the day on which the decision on review is issued, with a possible extension up to 03 months if necessary.

### **Section 3. COUNTERVAILING MEASURES IMPOSED ON IMPORTS OF VIETNAM**

#### **Article 83. Countervailing measures**

1. Countervailing measure imposed on imports of Vietnam (hereinafter referred to as “countervailing measure”) is a measure imposed on products that are subsidized when being imported to Vietnam, which causes the material injury or threat of material injury to the domestic industry or retards the establishment of the domestic industry.

2. Countervailing measures include:

a) The imposition of countervailing duties

b) The undertakings between the producer or exporter or the Government thereof and the competent authority of Vietnam on the voluntary removal or reduction of subsidies or price undertakings;

c) Other countervailing measures.

#### **Article 84. Subsidies**

Subsidy is a financial contribution by a government or any public body within the territory of a country whose products are imported to Vietnam via the following forms to benefit organizations and individuals receiving such subsidies:

1. A government practice involves a direct transfer of funds, potential direct transfers of funds or liabilities;
2. The government revenue that is otherwise due is foregone or not collected;
3. A government provides products or services other than general infrastructure, or purchases products;
4. A government buys products or services with the price higher than the market price;
5. A government sells products or services with the price lower than the market price;
6. A government makes payments to a funding mechanism, or entrusts or directs a private body to carry out one or multiple types of functions illustrated in Clauses 1, 2, 3, 4 and 5 of this Article which would normally be vested in the government and the practice, in no real sense, differs from practices normally followed by governments;
7. Any form of income or price support;
8. Any form of subsidies that is not mentioned in Clauses 1, 2, 3, 4, 5, 6 and 7 of this Article shall be determined according to the principle of fairness and reasonableness and not against international treaties to which the Socialist Republic of Vietnam is a signatory;

#### **Article 85. Subsidies subject to countervailing measures**

The following subsidies shall be subject to the countervailing measure, unless other regulations specified in international treaties to which the Socialist Republic of Vietnam is a signatory.

1. Subsidies upon the export performance;
2. Subsidies upon the use of domestic over imported products;
3. Subsidies prescribed in Article 84 of this Law which cause nullification or impairment of benefits accruing directly or indirectly to Vietnam in accordance with regulations of international treaties to which the Socialist Republic of Vietnam is a signatory.

#### **Article 86. Conditions for the imposition of countervailing measures**

1. A countervailing measure will be imposed on imports if all following conditions are satisfied:
  - a) Products are subsidized as prescribed in Articles 84 and 85 of this Law and the rate of subsidy is specific, except for the cases prescribed in Clause 2 of this Article;

b) There is material injury or threat of material injury to the domestic industry or the material retardation of establishment of the domestic industry;

c) There is the existence of a causal link between the import of subsidized products prescribed in Point a of this Clause and the injury to the domestic industry prescribed in Point b of this Clause.

2. The countervailing measure shall not imposed on producers or exporters of a developed country whose rate of subsidization is not more than 1% of the price of products exported to Vietnam, producers or exporters of a developing country whose rate of subsidization is not more than 2% of the export price and producers or exporter of a less-developed country whose rate of subsidization is not more than 3% of the export price.

3. If the production of imports originating in a developing country accounts for not more than 4% of total imports of like products to Vietnam and the total production of imports originating in developing countries and satisfying the abovementioned conditions accounts for not more than 9% of the total imports of like products to Vietnam, these countries will be exempt from the countervailing measures.

#### **Article 87. Bases for conducting countervailing duty investigations**

1. A countervailing duty investigation will be conducted if a representative of the domestic industry requests for the imposition of countervailing measures.

2. The application for the countervailing measures shall be considered to have been made on behalf of the domestic industry if the following conditions are satisfied:

a) The total production of like products produced by the applicant(s) and domestic producers supporting the application is greater than those produced by domestic producers that object to the application;

b) The total production of like products produced by the applicant(s) and domestic producers supporting the application accounts for at least 25% of total production of like products produced by the domestic industry.

3. The Minister of Industry and Trade shall decide the investigation if there is obvious evidence that the import of subsidized products causes the material injury or threat of material injury to the domestic industry or retards the establishment of the domestic industry.

#### **Article 88. Contents of a countervailing duty investigation**

1. Determine subsidized products imported to Vietnam and the rate of subsidization, including:

a) Determine the value of subsidy;

b) Determine the export price;

c) Determine the specific rate of subsidization imposed on each foreign producer or exporter.

2. Determine the material injury or threat of material injury to the domestic industry or the material retardation of establishment of the domestic industry, including:

a) Determine the production of subsidized imports and impacts on prices of like products in the domestic market;

b) Determine impacts of subsidized imports on the domestic industry.

3. Determine the causal link between the import of subsidized products and the material injury or threat of material injury to the domestic industry or the material retardation of establishment of the domestic industry.

4. Determine impacts of countervailing duties on the economy and society.

### **Article 89. Imposition of countervailing measures**

1. The imposition of provisional countervailing duty is decided by the Minister of Industry and Trade according to the preliminary determination provided by the investigating authority. The rate of provisional countervailing duty shall not exceed the rate of subsidization defined in the preliminary determination.

The maximum duration of provisional countervailing duty is 120 days from the day on which the decision on imposition of provisional countervailing duty comes into force. The Minister of Industry and Trade may grant an extension of this measure up to 60 days.

2. The undertakings measure shall be imposed as follows:

a) After the preliminary determination is reached and before the investigation finishes, the producer or exporter of products under consideration or the Government subsidizing products can make an undertaking with the investigating authority on voluntary removal of subsidy, reduction of the rate of subsidization, adjustments to the prices of exports or imposition of other appropriate measures;

b) The investigating authority can accept, refuse the undertaking or request the adjustments to contents of the undertaking based on opinions of the representative of the domestic industry.

3. The countervailing duty shall be imposed as follows:

a) If the undertaking prescribed in Clause 2 of this Clause is not made, after the investigation finishes, the investigating authority will publish the final determination related to the contents of the investigation prescribed in Article 88 of this Law. The final determination of the investigating authority and main bases thereof shall be notified to interested parties via appropriate measures.

b) According to the final determination provided by the investigating authority, the Minister of Industry and Trade shall decide whether the countervailing duty is imposed;

c) The rate of countervailing duty shall not exceed the rate of subsidization defined in the final determination;

d) The maximum duration of countervailing duty is 05 years from the day on which the decision on imposition of countervailing duty comes into force, unless it is extended as prescribed in Clause 2 Article 90 of this Law.

#### 4. Retroactivity of the countervailing duties

a) If the final determination provided by the investigating authority shows that there is material injury or threat of material injury to the domestic industry, the Minister of Industry and Trade will decide the retroactivity of countervailing duties;

b) Countervailing duties will be imposed retroactively on imports within 90 days prior to the date of imposition of provisional countervailing duties if the imports are determined to be subsidized and the volume or quantity of subsidized products imported to Vietnam rise sharply in the period from the date of the investigation to the date of imposition of provisional countervailing duties causing the injury which is difficult to be repaired to the domestic industry

5. Other countervailing measures shall be imposed in accordance with international treaties to which the Socialist Republic of Vietnam is a signatory or principles of international law.

### **Article 90. Review of countervailing measures**

1. The review of countervailing measures at the request of an interested party shall be carried out as follows:

a) After 1 year from the day on which the decision on imposition of countervailing measures, the Minister of Industry and Trade may decide to review anti-dumping measures at the request of one or multiple interested parties of the case and evidence provide by them;

b) Procedures for the review shall not obstruct the imposition of countervailing measures;

c) The time limit for the review prescribed in this Clause is 6 months from the day on which the decision on review is issued, with a possible extension up to 3 months if necessary.

2. The final review shall be carried out as follows:

a) Within 1 year before the expiry date of anti-dumping measures, the Minister of Industry and Trade shall decide to carry out the final review of the imposition countervailing measures;

b) The review aims to determine the necessity and reasonableness and socio-economic impacts of the continued imposition of countervailing measures;



c) According to results of review provided by the investigating authority, the Minister of Industry and Trade shall decide whether to grant extension of countervailing measures;

d) The time limit for the final review is 9 months from the day on which the decision on review is issued, with a possible extension up to 3 months if necessary.

3. The review applied to new exporters shall be carried out as follows:

a) A new exporter may submit an application to the investigating authority to request the review and determination of particular rate of countervailing duty;

b) According to results of the review provided by the investigating authority, the Minister of Industry and Trade shall decide to impose a particular rate of countervailing duty on the new exporter under review;

c) The time limit for the review applied to the new exporter is 3 months from the day on which the decision on review is issued, with a possible extension up to 3 months if necessary.

4. The review of the scope of products subject to countervailing measures shall be carried out as follows:

a) Interested parties can request the investigating authority to review the scope of products subject to countervailing measures;

b) An application for the review shall include evidence and information proving that the imposition of countervailing measures on the entire products is not reasonable;

c) According to the determinations of review provided by the investigating authority, the Minister of Industry and Trade shall decide to make adjustments to the scope of products subject to countervailing measures;

d) The time limit for the review of the scope of products subject to countervailing measures is 6 months from the day on which the decision on review is issued, with a possible extension up to 3 months if necessary.

5. The review due to the change in situation shall be carried out as follows:

a) At any time after the official countervailing duty comes into force, if one or multiple interested parties finds that the new situation causes the significant change in the rate of subsidization of products subject to official countervailing measures, which leads to the removal of subsidies, material injury or threat of material injury to the domestic industry or the material retardation of establishment of the domestic industry or leads to the immaterial rate of subsidization, these interested parties may request the investigating authority to carry out the review due to changes in situation;

- b) An application for the review shall include evidence and information proving that the imposition of countervailing measures is no longer reasonable due to the change in situation;
- c) According to the determination of review provided by the investigating authority, the Minister of Industry and Trade shall decide to adjust or withdraw countervailing measures;
- d) The time limit for the review due to changes in situation is 9 months from the day on which the decision on review is issued, with a possible extension up to 3 months if necessary.

## **Section 4. SAFEGUARDS IMPOSED ON FOREIGN PRODUCTS IMPORTED TO VIETNAM**

### **Article 91. Safeguard measures**

1. Safeguard measure imposed on foreign products imported to Vietnam (hereinafter referred to as “safeguard measure”) is measure imposed on increased imports of particular products to Vietnam, which causes the serious injury or threat of serious injury to the domestic industry.

2. Safeguard measures include:

- a) Imposition of safeguard duties;
- b) Imposition of import quotas;
- c) Imposition of tariff-rate quotas;
- d) Issuance of import license;
- dd) Other safeguard measures.

### **Article 92. Conditions for the imposition of safeguard measures**

1. A safeguard measure will be imposed on imports if all following conditions are satisfied:

- a) There is an absolute increase or a relative increase in imports compared with domestic production of like products;
- b) There is a serious injury or threat of serious injury to the domestic industry;
- c) The increased production of imports prescribed in Point a of this Clause is the major cause of the serious injury or threat of serious injury to the domestic industry.

2. If the production of imports originating in a developing country accounts for not more than 3% of total imports of like products to Vietnam and the total production of products originating in developing countries and satisfying the abovementioned conditions accounts for than 9% of

the total production of imports of like products to Vietnam, these countries will be exempt from the safeguard measures.

### **Article 93. Bases for conducting safeguard investigations**

1. The safeguard investigation will be conducted if a domestic producer of like or directly competitive products (“directly competitive products” mean products that are able to be substituted for products subject to the safeguard measures by the buyer due to their advantages and use purposes) submits an application for the imposition of safeguard measures.
2. The application shall prove that the excessive import of products to Vietnam causes the serious injury or threat of serious injury to the domestic industry.
3. The Minister of Industry and Trade shall decide the investigation if there is clear evidence that the excessive import of products to Vietnam causes the serious injury or threat of serious injury to the domestic industry.

### **Article 94. Contents of a safeguard investigation**

1. Determine the products that are imported excessively to Vietnam and the rate of the increase in imports.
2. Determine the serious injury or threat of serious injury to the domestic industry.
3. Determine the causal link between the excessive import of products prescribed in Clause 1 of this Article and the injury to the domestic industry prescribed in Clause 2 of this Article.

### **Article 95. Imposition of safeguard measures**

1. The imposition of provisional safeguard measures shall be decided by the Minister of Industry and Trade according to the preliminary determination provided by the investigating authority if the delay in imposing safeguard measures causes the serious injury or threat of serious injury which is difficult to be repaired to the domestic industry.

The maximum duration of safeguard measure is 200 days from the day on which the decision on the imposition of safeguard measure comes into force.

2. An official safeguard measure shall be imposed as follows:

- a) After the investigation finishes, the investigating authority shall publish the final determinations of contents related to the investigation prescribed in Article 94 of this Law. The final determination of the investigating authority and main bases thereof shall be notified to interested parties of the case via appropriate measures;
- b) According to the final determination provided by the investigating authority, the Minister of Industry and Trade shall decide whether the official safeguard measure is imposed;

c) The maximum duration of safeguard measure including the duration of provisional safeguard measure is 04 years unless this duration is extended as prescribed in Clause 2 Article 96 of this Article;

d) The total duration of the safeguard measure including the duration of the provisional measure, the official measure and extension thereof shall not exceed 10 years.

## **Article 96. Review of safeguard measures**

1. The mid-term review shall be carried out as follows:

a) If the duration of the safeguard measure exceeds 03 years, the investigating authority shall review the situation not later than the mid-term of the measure to decide whether to maintain, withdraw or increase the pace of liberalization of the safeguard measure;;

b) According to results of the review provided by the investigating authority, the Minister of Industry and Trade shall make a decision on maintenance, withdrawal or increase of the pace of liberalization of the safeguard measure;

c) The time limit for the mid-term review is 6 months from the day on which the decision on review is issued, with a possible extension up to 3 months if necessary.

2. The final review shall be carried out as follows:

a) Before the duration of a safeguard measure expires, domestic producers of like or directly competitive products that wish to extend the duration of the safeguard measure shall submit an application for the extension of the safeguard measure. An application for the extension of the safeguard measure shall obtain the evidence showing that the domestic industry has made necessary adjustments to raise its competitive capability and the withdrawal of the safeguard measure will cause the serious injury or threat of serious injury to the domestic industry;

b) The investigating authority can base on the request for the extension of the safeguard measure prescribed in Point a of this Clause or conduct a final review of the imposition of the measure;

c) According to results of the review provided by the investigating authority, the Minister of Industry and Trade shall make a decision on the withdrawal or extension of the safeguard measure;

d) The level of the safeguard measure in the extension thereof shall not be higher than those of the original safeguard measure immediately preceding the expiry date;

dd) The time limit for the final review is 06 months from the day on which the decision on review is issued, with a possible extension up to 06 months if necessary.

3. The review of the scope of products subject to a safeguard measure shall be carried out as follows:

- a) Importers of products subject to the safeguard measure can request the investigating authority to review the scope of products subject to the safeguard measure;
- b) An application for the review shall include evidence and information proving that the imposition of the safeguard measure on the entire products is not reasonable;
- c) According to the determinations of review provided by the investigating authority, the Minister of Industry and Trade shall decide to make adjustments to the scope of products subject to the safeguard measure;
- d) The time limit for the review of products subject to the safeguard measure is 6 months from the day on which the decision on review is issued, with a possible extension up to 3 months if necessary.

#### **Article 97. Reapplication of safeguard measures**

1. A safeguard measure that has been imposed on a type of products can be imposed again on these products. To be specific:

- a) If the safeguard measure has been imposed for more than 04 years, including the extension thereof (if any), it will be only imposed again after a period of time equal to at least a half of duration of the original safeguard measure;
- b) If the safeguard measure has been imposed from more than 180 days to less than 04 years, including the extension thereof (if any), it will be only imposed again after 02 years from the expiry date of the original safeguard measure;
- c) If a new safeguard measure has a duration of 180 days or less, it may be applied so long as at least one year has elapsed since the date of introduction of the original safeguard measure and so long as such a safeguard measure has not been imposed on the same product more than twice in the five-year period before the day on which the reapplication of the safeguard measure comes into force.

2. Procedures for an investigation into the reapplication of a safeguard measure shall be the same as those for a safeguard investigation.

#### **Article 98. Compensations**

- 1. The compensation and compensation level for the imposition of a safeguard measure shall comply with regulations of Vietnam law and international treaties to which the Socialist Republic of Vietnam is a signatory.
- 2. The compensation and compensation level shall be determined according to results of the consultation of interested parties.

3. The Ministry of Industry and Trade shall take charge and cooperate with relevant Ministries and ministerial authorities in formulation a plan for the compensation and submit it to the Prime Minister for the approval before consulting victims of the imposition of the safeguard measure.

#### **Article 99. Special safeguards**

1. Special safeguard is a safeguard measure that is imposed by the Minister of Industry and Trade in the cases where the imports of Vietnam grow excessively as a result of the reduction of tax according to the regulations of international treaties to which the Socialist Republic of Vietnam is a signatory.

2. The special safeguard shall only be imposed on products that originate in specific countries in accordance with international treaties to which the Socialist Republic of Vietnam is a signatory.

3. The special safeguard investigation shall comply with international treaties to which the Socialist Republic of Vietnam is a signatory.

### **Chapter V**

## **URGENT CONTROL IN FOREIGN TRADE ACTIVITIES**

### **Section 100. Cases subject to urgent control measures**

1. Products come from countries, territories, geographic areas which are in war, engage in wars or conflicts or are at risk of armed conflicts, which directly or indirectly affects the security and interests of Vietnam.

2. Products come from countries, territories or geographic areas affected by natural disaster, epidemics or environmental incidents which are publicly disclosed or proved to cause serious threats to the health of consumers of such products by the competent authority of Vietnam.

3. Products come from countries, territories or geographic areas and obtain technical incidents, shortcoming and errors which are publicly disclosed or proved to produce direct and serious effects on the health of consumers of such products by the competent authority of Vietnam.

4. Products come from countries, territories or geographic areas and cause serious effects on the environment, ecological environment and biodiversity of Vietnam and the competent authority of Vietnam have public information or scientific basis to prove these effects.

5. The balance of payment is imbalanced

6. Other especially serious cases prescribed by law.

### **Article 101. Principles of urgent control measures**

1. The urgent control measure shall only be imposed in the cases prescribed in Article 100 of this Law.
2. The competent authority shall decide the imposition of administrative measures in accordance with regulations in Chapter II of this Law.
3. The competent authority that decides the imposition of urgent control measures shall select the least trade restrictive measure.
4. The urgent control measure shall be removed if the cases prescribed in Article 100 of this Law no longer exist or through a negotiation.

#### **Article 102. Consultation in case of urgent control measures**

1. Before and after the urgent control measure is issued or removed, the competent authority imposing such measures shall consult the commercial partners affected directly by the safeguards measures in accordance with regulations of international treaties to which the Socialist Republic of Vietnam is a signatory.
2. Relevant ministers and heads of ministerial authorities shall provide detailed regulations on the consultation in case of urgent control measures.

### **Chapter VI**

#### **MEASURES FOR DEVELOPING FOREIGN TRADE ACTIVITIES**

##### **Article 103. General policies on developing foreign trade activities**

1. The State shall formulate policies on developing foreign trade activities via the following measures;
  - a) Credit activities prescribed by the Government in accordance with regulations of international treaties to which the Socialist Republic of Vietnam is a signatory;
  - b) Trade promotion to speed up foreign trade activities including the assistance in construction, protection, development and promotion of brands of domestic products in foreign markets; establishment and provision of trade promotion information system ; connection between traders to promote effective export and import to serve domestic production or export processing;
  - c) Other measures for expanding export and import markets.
2. All domestic and foreign authorities and traders may promote the development of foreign trade in accordance with regulations of law.

3. Measures for developing foreign trade activities shall be conformable with the orientation of the strategies for socio-economic development and foreign trade in each period formulated by the Prime Minister.

4. Measures for developing foreign activities shall be implemented effectively and cooperated with measure for developing investment and tourism activities.

#### **Article 104. Specific policies on developing foreign trade activities**

1. The State shall formulate the policy on developing foreign trade activities related to domestic products obtaining the competitive advantages, technological products and input materials serving the domestic production.

2. The State shall formulate policies on encouraging small and medium-sized enterprises and enterprises in mountainous regions, border regions, islands, remote and isolated regions, ethnic minority regions and regions whose socio-economic conditions are difficult or especially difficult to engage in foreign trade activities.

3. The Government shall provide detailed guidance on this Article.

#### **Article 105. Development of the foreign trade via trade promotion**

1. The policy on trade promotion assisting the foreign trade shall be implemented by the following authorities and organizations:

a) Domestic trade promotion authorities and organizations;

b) Overseas trade promotion organizations;

c) Foreign trade promotion organizations in Vietnam;

d) Representative missions of Socialist Republic of Vietnam in foreign countries and trade representatives.

2. Activities for developing foreign trade via trade promotion include:

a) Formulate and execute national programs and activities for trade promotion, formulate and develop national trade names of products and products decided by the Prime Minister to develop the foreign trade in accordance with conditions for socio-economic development in each period;

b) Formulate and carry out activities of the market development, formulation and promotion of trade names of local products and products carried out by the local government to develop the foreign trade in accordance with conditions for socio-economic development in each period;

c) Carry out activities of trade connection and join distribution systems in foreign countries and in Vietnam;



- d) Provide assistance in the development and operation of trade and logistics infrastructure;
  - dd) Provide assistance in the research into development and enhancement of the quality of products and products;
  - e) Provide the training to improve the traders' capacity in trade promotion and market development;
  - g) Carry out other activities in accordance with regulations of law.
3. Associations, socio-professional organizations and business entities that establish or join overseas trade promotion organizations shall comply with regulations of Vietnam law and law of relevant countries.
4. According to the export growth targets decided by the National Assembly in each period, the competent authority shall provide funding for activities of trade promotion carried out by authorities, organizations and individuals in accordance with regulations of law on the state budget.
5. The Government shall provide detailed guidance on this Article.

#### **Article 106. Development of the foreign trade via activities of foreign trade promotion organizations in Vietnam**

1. Trade promotion organizations and organizations of foreign countries (hereinafter referred to as "foreign trade promotion organizations") may establish their representative offices in Vietnam to carry out their activities related to the trade promotion and development of foreign trade.
2. A foreign trade promotion organization will establish its representative office in Vietnam if:
- a) It is established in accordance with regulations of foreign law; and
  - b) Its charter and operating purposes are conformable with regulations of Vietnam law and international treaties to which the Socialist Republic of Vietnam is a signatory.
3. The Government shall provide specific regulations on the establishment and management of representative offices of foreign trade promotion organizations in Vietnam.

#### **Article 107. Development of the foreign trade via activities of trade representatives**

1. Trade representatives are organized in areas that wish to develop foreign trade activities in order to serve the development of foreign trade activities of the country in accordance with regulations of law and provide assistance in the protection of economic and commercial interests of Vietnam and Vietnamese traders in foreign trade activities.

2. The organization and operation of trade representative shall comply with regulations of law on overseas representative missions of the Socialist Republic of Vietnam.

## **Chapter VII**

### **DEALING WITH DISPUTES RELATED TO THE IMPOSITION OF MEASURES FOR FOREIGN TRADE MANAGEMENT**

#### **Article 108. Principles for dealing with disputes related to the imposition of measures for foreign trade management**

1. Only disputes related to the imposition of measures for foreign trade management and the relationship between the Government of Vietnam and foreign government shall be dealt with in accordance with regulations of international treaties to which the Socialist Republic of Vietnam is a signatory.

2. Rights and interests of Vietnam shall be protected promptly and reasonably.

3. Disputes related to the foreign trade between a Vietnamese trader and a foreign trader shall be dealt with by these traders in accordance with their agreement, regulations of Vietnam law and regulations of international treaties to which the Socialist Republic of Vietnam is a signatory.

#### **Article 109. Regulatory authorities dealing with disputes related to the imposition of measures for foreign trade management**

1. The Government is the regulatory authority having the power to deal with disputes related to the imposition of measures for foreign trade management. The Government shall assign Ministries and ministerial authorities to deal with disputes related to the imposition of measures for foreign trade management.

2. The Ministry of Industry and Trade shall work as a focal point to assist the Government in dealing with disputes related to the imposition of measures for foreign trade management.

#### **Article 110. Procedures for dealing with disputes sued by foreign governments**

1. If a foreign government sues the Government of Vietnam in accordance with regulations of international treaties to which the Socialist Republic of Vietnam is a signatory related to measures for foreign trade management imposed by the State of Vietnam, the Ministry of Industry and Trade will cooperate with relevant Ministries, ministerial authorities, authorities and organizations in formulating the plan for dealing with the dispute and submit it to the Prime Minister for approval.

2. Relevant Ministries, ministerial authorities, authorities and other organizations shall carry out the assigned duties according to the approved plan for dealing with the dispute.

3. The Government shall provide specific regulations on procedures for and the cooperation in dealing with disputes sued by foreign governments.

#### **Article 111. Procedures for dealing with disputes sued by the Government of Vietnam**

1. If the Government finds that measures for foreign trade management of a foreign country obtains regulations affecting rights and interests of Vietnam or base on requests of traders or associations, the Government will decide to sue for such measures in accordance with regulations of this Law and international treaties to which the Socialist Republic of Vietnam is a signatory.

2. The Ministry of Industry and Trade shall cooperate with relevant Ministries, ministerial authorities, authorities and other organizations in formulating the plan for dealing with the dispute and submit it to the Prime Minister for approval.

3. Relevant Ministries, ministerial authorities, authorities and other organizations shall carry out the assigned duties according to the approved plan for dealing with the dispute.

4. The Government shall provide specific regulations on procedures for and the cooperation in dealing with disputes sued by the Government of Vietnam.

### **Chapter VIII**

#### **IMPLEMENTATION CLAUSES**

##### **Article 112. Effect**

1. This Law comes into force from January 01, 2018.

2. The following ordinances shall expire from the day on which this Law comes into force, except for the cases prescribed in Article 113 of this Law:

a) The ordinance No. 42/2002/PL-UBTVQH10 on safeguards in the import of foreign products into Vietnam;

b) The ordinance No. 20/2004/PL-UBTVQH11 on anti-dumping of imports into Vietnam

c) The ordinance No. 22/2004/PL-UBTVQH11 on countervailing duties of imports into Vietnam

3. The following regulations shall be annulled: Clause 3 Article 28, Clause 3 Article 29, Clause 3 Article 30, Articles 31, 33, 242, 243, 244, 245, 246 and 247 of Commercial Law No. 36/2005/QH11.

##### **Article 113. Transition clause**

From the day on which this Law comes into force, cases of safeguards whose documents on complaint and investigation are received by the competent authority before this Law comes into force shall continue to be considered and dealt with according to regulations of the ordinance No. 42/2002/PL-UBTVQH10 on safeguards in the import of foreign products into Vietnam, the ordinance No. 20/2004/PL-UBTVQH11 on anti-dumping of imports into Vietnam and the ordinance No. 22/2004/PL-UBTVQH11 on countervailing duties of imports into Vietnam.

*This Law is passed by the 14<sup>th</sup> National Assembly of Socialist Republic of Vietnam on June 12, 2017 during the 3<sup>rd</sup> session.*

**CHAIRWOMAN OF NATIONAL  
ASSEMBLY**

**Nguyen Thi Kim Ngan**