

No. 05/2017/QH14

**LAW  
ON FOREIGN TRADE MANAGEMENT**

*Pursuant to the Constitution of the Socialist Republic of Viet Nam;  
The National Assembly promulgates the Law on Foreign Trade Management.*

**Chapter I  
GENERAL PROVISIONS**

**Article 1. Scope of regulation**

This Law prescribes measures to manage foreign trade and develop foreign trade activities; settlement of disputes about application of foreign trade management measures.

**Article 2. Subjects of application**

1. State management agencies.
2. Traders engaging in foreign trade activities.
3. Other related domestic and foreign organisations, individuals.

**Article 3. Interpretation of terms**

In this Law, the terms below are construed as follows:

1. *Foreign trade activities* means international goods purchase and sale activities which are carried out in the forms of export, import; temporary import for re-export; temporary export for re-import; border-gate transfer; and transit, and other activities relating to international goods purchase and sale activities in accordance with the law as well as treaties to which the Socialist Republic of Viet Nam is a contracting party.

2. *Technical measures* means measures applied to exports, imports in accordance with the laws on product and goods quality, standards and technical regulations, food safety, measurement.

3. *Quarantine measures* include measures of quarantine of animals and animal products, quarantine of plants, border health quarantine in accordance with the law on plant protection and quarantine, animal health, prevention and control of infectious diseases.

4. *Exclusive customs area* means a given geographical area in the Vietnamese territory which is established under Vietnamese law and treaties to which the Socialist Republic of Viet Nam is a contracting party; has goods trading and exchange relationship with the rest of the territory and foreign countries which is export, import relationship.

5. *Foreign trader without presence in Viet Nam* means a foreign trader that conducts no investment or business activities in Viet Nam in the forms prescribed in laws on investment, commerce, enterprises; has no representative office or branch in Viet Nam in accordance with the laws on commerce, enterprises.

#### **Article 4. Principles of state management of foreign trade**

1. The State shall manage foreign trade in accordance with Vietnamese law and treaties to which the Socialist Republic of Viet Nam is a contracting party.

2. Assurance of transparency, publicity, fairness and simplifies administrative procedures; guarantee of lawful rights and interests of the State and traders of all economic sectors; promotion of the development of domestic production and export in association with management of import.

3. Full compliance with the principles of most-favoured nation treatment and national treatment in foreign trade activities in accordance with Vietnamese law and treaties to which the Socialist Republic of Viet Nam is a contracting party.

#### **Article 5. Right to freedom of export and import business**

1. The right to freedom of export and import business of Vietnamese traders other than foreign-invested economic organisations is prescribed as follows:

a) Traders may conduct export and import business and carry out other related activities regardless of their registered business sectors or trades, except for goods on the List of goods banned from export or import and goods suspended from export or import;

b) When exporting or importing goods under permits or prescribed conditions, traders must satisfy the requirements on permits, conditions;

c) Branches of Vietnamese traders may carry out foreign trade activities as authorised by these traders.

2. The right to freedom of export and import business of Vietnamese traders that are foreign-invested economic organisations or Viet Nam-based branches of foreign traders is prescribed as follows:

a) Traders may exercise the right to export or the right to import in accordance with this Law and treaties to which the Socialist Republic of Viet Nam is a contracting party.

The Ministry of Industry and Trade shall announce the List of goods and the roadmap for exercise of the right to export or the right to import these goods in accordance with treaties to which the Socialist Republic of Viet Nam is a contracting party;

b) Traders may exercise the right to export through purchasing goods in Viet Nam for export abroad by undersigning export declarations in order to carry out and take responsibility for export-related procedures. The right to export does not cover the right to organise a network to purchase goods in Viet Nam for export;

c) Traders may exercise the right to import goods from abroad into Viet Nam for sale to traders that have the right to distribute such goods in Viet Nam by undersigning import declarations in order to carry out and take responsibility for import-related procedures. The right to import does not cover the right to organise or participate in a network to distribute goods in Viet Nam.

3. Foreign traders without presence in Viet Nam and other related organisations and individuals of the countries and territories (hereinafter collectively referred to as countries) that are members of the World Trade Organisation and countries that have concluded bilateral agreements with Viet Nam have the right to export and the right to import as prescribed in the Vietnamese law and treaties to which the Socialist Republic of Viet Nam is a contracting party.

4. Exports and imports shall be prescribed and publicised in detail corresponding to their classification on Viet Nam's Exports and Imports Classification Nomenclature in accordance with the customs law.

5. The Government shall detail Points b and c, Clause 2, and Clause 3 of this Article.

#### **Article 6. State management responsibilities regarding foreign trade**

1. The Government shall perform the unified state management of foreign trade.

2. The Ministry of Industry and Trade shall act as the focal point to assist the Government in performing the state management of foreign trade and has the following tasks and powers:

a) To submit to competent state agencies for approval and promulgation of strategies, plans and policies on management and development of foreign trade activities, development of regional and world markets, and economic integration in each period; to decide on the implementation of a number of management measures in accordance with this Law;

b) To promulgate or submit to competent state agencies for promulgation of legal documents on foreign trade management;

c) To guide, disseminate, organise the implementation of, and examine and evaluate legal documents on and measures of foreign trade management in accordance with the law;

d) To provide information relating to foreign trade activities and foreign trade management in accordance with the law on access to information;

dd) To manage the operation of foreign trade-promotion organisations in Viet Nam;

e) To provide operational instructions for trade representations under overseas representative missions of the Socialist Republic of Viet Nam (hereinafter referred to as trade representations);

g) To assist the Government and the Prime Minister in negotiating, concluding, and coordinating the implementation of, treaties in the field of foreign trade; to conduct negotiations on opening export markets, deal with barriers to exports within its competence, and conduct general supervision of the implementation of treaties by partners;

h) To advise the Government on the settlement of disputes about application of foreign trade management measures;

i) To conduct inspection and examination, settle complaints and denunciations, and handle violations of the law on foreign trade management according to its competence;

k) To take technical measures within the ambit of its tasks and powers in accordance with the law.

3. Within the ambit of their tasks and powers, ministries and ministerial-level agencies have the following responsibilities:

a) To assume the prime responsibility for, and coordinate in, negotiating treaties and supervising the implementation of commitments by partners, and deal with barriers to exports within the ambit of their competence; to manage foreign trade and develop foreign trade activities in accordance with the law; to report and share information on foreign trade activities and foreign trade management;

b) The Ministry of Finance shall assume the prime responsibility for, and coordinate with related agencies in, formulating and submitting to competent authorities for promulgation of, and guide and examine the implementation of, legal documents on taxes, charges and fees for exports and imports; coordinate with related ministries, ministerial-level

agencies, organisations and individuals in formulating laws and policies concerning foreign trade management in accordance with this Law and other relevant laws; and direct customs offices to conduct examination and supervision and compile statistics of exports and imports in accordance with the customs law;

c) The Ministry of Agriculture and Rural Development shall assume the prime responsibility for, and coordinate with related ministries, ministerial-level agencies, organisations and individuals in, proposing, formulating, and organising the implementation of, animal and plant quarantine and food safety measures and foreign trade development

measures within the ambit of their tasks and powers in accordance with law;

d) The Ministry of Health shall assume the prime responsibility for, and coordinate with related ministries, ministerial-level agencies, organisations and individuals in, proposing, formulating, and organising the implementation of, border health quarantine and food safety measures and foreign trade development measures within the ambit of their tasks and powers in accordance with law;

dd) The Ministry of Science and Technology shall assume the prime responsibility for, and coordinate with related ministries, ministerial-level agencies, organisations and individuals in, proposing, formulating, and organising the implementation of, technical measures within the ambit of their tasks and powers in accordance with law.

4. Within the ambit of their tasks and powers, provincial-level administrations have the following responsibilities:

a) To perform the state management of foreign trade in their localities in accordance with this Law and as decentralised by the Government, the Prime Minister, ministries or ministerial-level agencies;

b) To assume the prime responsibility for, and coordinate with related organisations and individuals in, proposing foreign trade development schemes and projects in their localities;

c) To direct their attached specialised agencies to conduct inspection and examination and handle violations committed in the state management of foreign trade in their localities;

d) To maintain, update, and provide information for information systems on export and import management and trade promotion;

dd) To make or direct their attached specialised agencies to make periodical and extraordinary reports serving the state management of foreign trade in their localities.

### **Article 7. Prohibited acts in foreign trade management**

1. Abusing positions or powers to commit acts against the law on foreign trade management, obstruct lawful export and import business activities, or infringe upon the right to freedom of export or import business of traders prescribed in Article 5 of this Law.

2. Applying foreign trade management measures ultra vires or in contravention of the prescribed order and procedures.

3. Illegally disclosing confidential information of traders.

4. Exporting or importing goods banned or suspended from export or import, except in cases specified in Clause 2, Article 10, and Clause 1, Article 14, of this Law; goods subject to export or import permits or conditions without any permit or fully satisfying the prescribed conditions; goods not through designated border gates; goods without undergoing customs procedures or goods with fraudulent quantity, volume, category or origin declaration upon customs clearance; or goods having no stamp as prescribed by the law.

5. Exporting or importing goods in violation of Clauses 2 and 3, Article 5 of this Law.

6. Falsifying or forging papers relating to foreign trade management activities.

[...]

## **Chapter IV TRADE REMEDIES**

### **Section 1 GENERAL PROVISIONS**

### **Article 67. Trade remedies**

1. Trade remedies include anti-dumping, countervailing and safeguard measures which the Minister of Industry and Trade decides to apply to imports into Viet Nam on a case-by-case basis.

2. The Government shall prescribe in detail methods of determining injury to a domestic industry; anti-circumvention of trade remedies; grounds for launching, and the order, procedures, time limit, contents, and grounds for termination of, investigations of trade remedy cases (hereinafter referred to as investigation); application and review of trade remedies; identification of subsidies and countervailing measures; responsibilities of related agencies to coordinate with one another in the investigation process; and handling of trade remedies applied against Vietnamese exports.

3. The Minister of Industry and Trade shall prescribe in detail related parties in investigation cases, the provision, collection and confidentiality of information and documents; spoken and written languages used in the investigation process; management of the import of goods under investigation for application of trade remedies; and cases of exemption from trade remedies.

### **Article 68. Principles of application of trade remedies**

1. Trade remedies shall be applied within a scope or to an extent as necessary and reasonable and within a given period with a view to protecting, preventing, or limiting injury to, a domestic industry.

2. Trade remedies shall only be applied after an investigation has been conducted in a transparent, fair and lawful manner, and based on the investigation determinations.

3. Decisions on investigation and application of trade remedies shall be publicly announced.

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

5. If the official duty rate of a trade remedy is lower than the provisional one, the duty difference shall be refunded.

6. In case the Minister of Industry and Trade decides not to apply an official trade remedy, the collected provisional duty or the amount deposited to secure payment of provisional duty shall be refunded.

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

1. A domestic industry means a group of manufacturers of like products within the Vietnamese territory or their representatives that manufacture goods making up a major percentage in the total output of domestically manufactured goods of such industry. A domestic manufacturer that directly imports goods under investigation or has relations with exporters or importers of goods under investigation might not be considered a domestic manufacturer.

Like products are goods that have all properties resembling those of the goods under investigation. If such goods are not available, like products are goods that have many basic properties resembling those of the goods under investigation.

2. Injury to a domestic industry shall be determined as follows:

a) Material injury to a domestic industry is a situation in which a domestic industry experiences a material decline or retarded growth in its production and business;

b) Threat of material injury to a domestic industry is an immediate, clear and provable possibility of causing material injury to a domestic industry;

c) Impediment to the formation of a domestic industry is a situation that leads to difficulties to the formation of a domestic industry;

d) Serious injury to a domestic industry is a situation in which a domestic industry experiences an overall decline in its production and business activities;

dd) Threat of serious injury to a domestic industry is an immediate, clear and provable possibility of causing serious injury to a domestic industry.

## **Article 70. Order and procedures for investigation of trade remedy cases**

1. Organisations or individuals representing a domestic industry may submit a dossier of request for application of trade remedies if seeing that goods are dumped or subsidised upon import or are excessively imported, thus causing injury to that domestic industry.

2. Within 45 days from the date of issuance of a notice of a valid dossier, based on the proposal of the trade remedy investigation authority (hereinafter referred to as the investigation authority), the Minister of Industry and Trade shall issue a decision to launch or not to launch an investigation. In special cases, this time limit may be extended once for no more than 30 days.

3. The time limit for investigation is prescribed as follows:



a) An investigation for application of anti-dumping or countervailing measures may last up to 12 months from the date of issuance of an investigation decision. In special cases, the Minister of Industry and Trade may extend this time limit, provided the total investigation period must not exceed 18 months;

b) An investigation for application of safeguard measures will last up to 9 months from the date of issuance of an investigation decision. In special cases, the Minister of Industry and Trade may extend this time limit, provided the total investigation period must not exceed 12 months.

4. Consultation in the investigation process is prescribed as follows:

a) Related parties in an investigation case are entitled to present in writing information and opinions relating to such case to the investigation authority;

b) The investigation authority shall provide consultation opportunities for related parties when receiving the latter's written request under Point a of this Clause;

c) Before announcing its final determination, the investigation authority may hold a public consultation for related parties to present information and opinions relating to the investigation case.

5. The notification responsibility is prescribed as follows:

a) Within 15 days from the date the Minister of Industry and Trade issues a decision to launch an anti-dumping or countervailing investigation, the investigation authority shall notify the investigation to the government of the country of the related manufacturer/exporter and other related parties;

b) The investigation authority shall publicly announce its preliminary investigation determination, final investigation determination, approval of commitments and termination of investigation to related parties in an investigation case;

c) The investigation authority shall perform other notification obligations under treaties to which the Socialist Republic of Viet Nam is a contracting party.

#### **Article 71. Termination of investigation of trade remedy cases**

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

1. An organisation or individual that submits a dossier of request for application of trade remedies voluntarily withdraws such dossier;

2. The investigation authority's preliminary determination states that no injury is caused or there is no threat of injury to a domestic industry or there is no impediment to the formation of a domestic industry;

3. The investigation authority's final determination states one of the following contents:

a) The imported goods under investigation are neither dumped nor subsidised or such goods are not excessively imported;

b) No injury is caused to a domestic industry as prescribed in Clause 2, Article 69 of this Law;

c) There is no causal relationship between the import of goods which are claimed to be dumped or subsidised or excessively imported and the extent of injury or threat of injury to a domestic industry or the impediment to the formation of a domestic industry;

4. The investigation authority has reached agreement with the competent authority of the country having the goods claimed to be subsidised upon import into the Vietnamese territory on removal of the subsidy.

#### **Article 72. Anti-circumvention of trade remedies**

1. Circumvention of a trade remedy means an act aiming to circumvent part or the whole of the obligation to comply with a trade remedy currently in force with regard to the goods subject to this remedy upon import into the Vietnamese territory.

2. A trade remedy currently in force may be expanded in the case the investigation authority identifies an act of circumvention of a trade remedy.

3. The investigation authority may launch an investigation against an act of circumvention of a trade remedy at the request of the representative of a domestic industry or based on information it has acquired.

4. Based on the investigation authority's conclusion, the Minister of Industry and Trade shall issue a decision to apply measures for anti-circumvention of trade remedies for investigated goods or their components imported from related countries.

#### **Article 73. The investigation authority**

1. The investigation authority shall be established by the Government as part of the organisational structure of the Ministry of Industry and Trade.

2. The investigation authority has the following tasks and powers:

- a) To receive dossiers of request for investigation for application of trade remedies and notify whether or not they are valid or request their supplementation;
- b) To propose to the Minister of Industry and Trade for the issuance of a decision to launch or not to launch an investigation for application of trade remedies;
- c) To organise investigations for application of trade remedies and against acts of shirking trade remedies;
- d) To propose to the Minister of Industry and Trade for the issuance of a decision to apply trade remedies; to apply measures for anti-circumvention of trade remedies; to change trade remedies based on investigation conclusions or review conclusions;
- dd) To review trade remedies;
- e) To propose to the Minister of Industry and Trade for termination of investigation or termination of the application of trade remedies;
- g) To assume the prime responsibility for participating in the settlement of disputes at bilateral and multilateral mechanisms in the investigation for application of trade remedies against imports into Viet Nam and Vietnamese exports;
- h) To assume the prime responsibility for assisting and responding to cases in which Vietnamese exports are investigated for application of trade remedies;
- i) To assume the prime responsibility for working out plans on, and negotiating compensations in cases of investigation for application of safeguard measures against imports into the Vietnamese territory;
- k) To inspect and examine the implementation of trade remedies by organisations and individuals involved in the investigation and application of trade remedies;
- l) Other tasks and powers as prescribed by law.

3. The head of the investigation authority shall be appointed, relieved from office or dismissed by the Minister of Industry and Trade and shall direct this body to perform the tasks and exercise the powers defined in Clause 2 of this Article.

4. The Minister of Industry and Trade shall define the tasks, powers and organisational structure of the investigation authority.

#### **Article 74. Related parties in investigation cases**

1. Related parties in an investigation case include:

- a) Overseas organisations and individuals that manufacture and export goods under investigation into the Vietnamese territory;

- b) Organisations and individuals that import goods under investigation;
- c) Foreign associations with a majority of their members being organisations and individuals that manufacture and export goods under investigation;
- d) The government and competent authorities of the country that exports goods under investigation;
- dd) Organisations or individuals that submit a dossier of request for application of trade remedies;
- e) Domestic organisations or individuals that manufacture like products;
- g) Domestic associations with a majority of their members being organisations or members that manufacture like products;
- h) Other organisations and individuals that have lawful rights and interests related to the investigation case or can assist in the investigation process or representative organisations that protect consumer interests.

2. Organisations and individuals shall register with and obtain approval from the investigation authority in order to become related parties in an investigation case.

3. Related parties in an investigation case may have access to information and documents provided by other related parties to the investigation authority, except information and documents prescribed in Clause 2, Article 75 of this Law.

**Article 75. Provision and collection of information and documents and confidentiality in the investigation of trade remedy cases**

1. Related parties in an investigation case shall provide necessary information and documents at the request of the investigation authority.

2. In the investigation process, the investigation authority and persons entitled to access information and documents relating to the investigation case shall keep such information and documents confidential at the request of information and document providers.

3. When necessary, the investigation authority may solicit an expert assessment or examine and verify the authenticity of information and documents provided by related parties or collect additional information and documents necessary for the settlement of a trade remedy case. The investigation authority may conduct on-site investigations, including overseas investigations.

4. In case the to-be-investigated party does not allow the investigation authority to access or refuses to provide information and documents that are important to the investigation, the investigation authority may use information and documents provided by related parties or collected by itself or available information and documents to make investigation conclusions.

**Article 76. Handling of cases in which Vietnamese exports are investigated for application of or applied with trade remedies**

1. In the case a Vietnamese trader is investigated for application or applied with a trade remedy by the importing country, the Ministry of Industry and Trade shall, at the proposal of the related line association and trader, assume the prime responsibility for, and coordinate with other ministries, ministerial-level agencies and competent state management agencies in, carrying out within the ambit of their respective tasks and powers the following activities to assist the trader:

- a) Providing information relating to the case;
- b) Exchanging information with the importing country that is conducting an investigation or applying a trade remedy against Vietnamese exports;
- c) Initiating a lawsuit against the importing country when detecting a violation of the relevant treaty to which the Socialist Republic of Viet Nam is a contracting party;
- dd) Carrying out other support activities in accordance with law.

2. In the case a Vietnamese trader is investigated for application of countervailing measures by the importing country, the Ministry of Industry and Trade shall assume the prime responsibility for, and coordinate with related ministries, ministerial-level agencies and provincial-level People's Committees in, working out a plan for coordination with the foreign investigation authority in accordance with the relevant treaty to which the Socialist Republic of Viet Nam is a contracting party.

3. In the case a Vietnamese trader is investigated for application of safeguard measures by the importing country, the Ministry of Industry and Trade shall assume the prime responsibility for, and coordinate with related ministries, ministerial-level agencies, organisations and individuals in, working out a plan on claim for compensation or retaliation in accordance with the relevant treaty to which the Socialist Republic of Viet Nam is a contracting party.

**Section 2**  
**ANTI-DUMPING AGAINST IMPORTS INTO VIET NAM**

**Article 77. Anti-dumping measures**

1. Anti-dumping measures against goods imported into Viet Nam (hereinafter referred to as anti-dumping measures) are measures which are applied in the case the imported goods are identified as being dumped into Viet Nam, causing material injury or threatening to cause material injury to a domestic industry or impeding the formation of a domestic industry.

2. Goods shall be identified as being dumped when they are imported into Viet Nam at prices lower than the comparable normal prices of like products sold in the exporting country or in a third country under normal trade conditions or at prices determined by the investigation authority by the self-calculation method.

3. Anti-dumping measures include:

- a) Imposition of anti-dumping duties;
- b) Commitment on measures to eliminate dumping by the organisation or individual manufacturing and exporting the goods requested to be applied with anti-dumping measures with the Vietnamese investigation authority or with domestic manufacturers when so approved by the investigation authority.

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

1. Anti-dumping measures shall be applied to imports when the following conditions are fully met:

- a) Imports into Viet Nam are dumped with a specified dumping margin, except the case referred to in Clause 2 of this Article;
- b) A domestic industry suffers material injury or is threatened to suffer material injury or its formation is impeded;
- c) There exists a causal relationship between the import of dumped goods prescribed in Point a of this Clause and the injury caused to a domestic industry referred to in Point b of this Clause.

2. No anti-dumping measures shall be applied to imports with a dumping margin not exceeding 2% of their export prices to Viet Nam.

3. If the volume or quantity of imports originating from a country does not exceed 3% of the total volume or quantity of similar imports into Viet Nam and the aggregate volume or quantity of goods originating from countries that satisfy the above condition does not exceed 7% of the total volume or quantity of similar imports into Viet Nam, these countries will be excluded from the scope of application of anti-dumping measures.

**Article 79. Grounds for launching investigations for application of anti-dumping measures**

1. An investigation for application of anti-dumping measures shall be launched when organisations or individuals representing a domestic industry submit a dossier of request for application of these measures.

2. Organisations or individuals that submit a dossier of request for application of anti-dumping measures shall be regarded as representing a domestic industry when all the following conditions are fully met:

a) The total volume or quantity of like products manufactured by the domestic manufacturers that submit the dossier and domestic manufacturers that support the request for application of anti-dumping measures is larger than the total volume or quantity of like products manufactured by the domestic manufacturers that oppose such request;

b) The total volume or quantity of like products manufactured by the domestic manufacturers that submit the dossier and domestic manufacturers that support the request for application of anti-dumping measures accounts for at least 25% of the total volume or quantity of like products manufactured by the domestic industry concerned.

3. The Minister of Industry and Trade shall decide to launch an investigation when having conspicuous evidence that the import of dumped goods causes material injury or threatens to cause material injury to a domestic industry or impedes the formation of a domestic industry.

**Article 80. Contents of investigation for application of anti-dumping measures**

1. Determination of dumped imports into Viet Nam and dumping margin covers:

a) Determination of normal prices;

b) Determination of export prices;

c) Fair comparison between normal prices and export prices and determination of the specific dumping margin of the to-be-investigated goods for every organisation or

individual manufacturing and exporting these goods (hereinafter referred to as manufacturer/exporter).

2. Identification of material injury or threat of causing material injury to a domestic industry or identification of the impediment to the formation of a domestic industry.

3. Determination of the causal relationship between the import of the dumped goods and material injury or threat of causing material injury to a domestic industry or the impediment to the formation of a domestic industry.

4. Identification of socio-economic impacts of anti-dumping measures.

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

1. The application of provisional anti-dumping duties shall be decided by the Minister of Industry and Trade based on the preliminary determination of the investigation authority. Provisional anti-dumping duty rates must not exceed the dumping margin stated in the preliminary determination.

The time limit for imposition of provisional anti-dumping duties is 120 days from the effective date of the decision on imposition of provisional anti-dumping duties. At the request of exporters of like products into Viet Nam, the Minister of Industry and Trade may extend this time limit for not more than 60 days.

2. The application of commitment measures is prescribed as follows:

a) After the preliminary determination is made and before the investigation finishes, the manufacturer/exporter of the investigated goods may make a commitment with the investigation authority that he/she/it will voluntarily adjust the selling prices or limit the volume or quantity of the investigated goods exported to Viet Nam;

b) The investigation authority may accept or reject the commitment or request adjustment of the commitment after consulting organisations or individuals representing the domestic industry concerned.

3. The imposition of anti-dumping duties is prescribed as follows:

a) If no commitment is made under Clause 2 of this Article, after finishing the investigation, the investigation authority shall announce its final determination on the investigation contents specified in Article 80 of this Law. The investigation authority's final determination and major grounds for making such conclusion shall be notified via an appropriate means to related parties in the investigation case;



b) Based on the investigation authority's final determination, the Minister of Industry and Trade shall issue a decision to impose or not to impose anti-dumping duties;

c) Anti-dumping duty rates must not exceed the dumping margin stated in the final determination;

d) The time limit for imposition of anti-dumping duties is 5 years from the effective date of the decision on imposition of anti-dumping duties, except the case of extension specified in Clause 2, Article 82 of this Law.

4. The imposition of retrospective anti-dumping duties is prescribed as follows:

a) In the case the investigation authority's final determination affirms that there is material injury or a threat of causing material injury to a domestic industry, the Minister of Industry and Trade may decide to impose retrospective anti-dumping duties;

b) Retrospective anti-dumping duties shall be imposed on goods imported within 90 days before the imposition of provisional antidumping duties if the imports are concluded as being dumped; the volume or quantity of dumped imports into Viet Nam sees an unusual increase in the period from the time of commencement of the investigation to the time of imposition of provisional anti-dumping duties, causing hard-to-remedy injury to a domestic industry.

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

1. A review at the request of related parties in an investigation case is prescribed as follows:

a) After 1 year from the date of issuance of a decision on application of anti-dumping measures, the Minister of Industry and Trade may decide to review the application of these measures at the request of one or more than one related party in the investigated case and after considering the evidence provided by the requester;

b) The performance of review-related procedures must not impede the application of anti-dumping measures currently in force;

c) The time limit for a review prescribed in this Clause is 6 months from the date of issuance of the review decision and, when necessary, may be extended once for not more than 3 months.

2. Sunset review is prescribed as follows:

a) One year before the expiration of the time limit for application of anti-dumping measures, the Minister of Industry and Trade shall issue a decision to conduct sunset review of such application;

b) The review aims to assess the necessity, reasonability and socioeconomic impacts of the continued application of anti-dumping measures;

c) Based on the investigation authority's review result, the Minister of Industry and Trade shall issue a decision to extend or not to extend the time limit for application of anti-dumping measures;

d) The time limit for sunset review is 9 months from the date of issuance of the review decision and, when necessary, may be extended once for not more than 3 months.

3. Review for foreign manufacturers/exporters that export goods under investigation to the Vietnamese territory after the initial phase of investigation (hereinafter referred to as new exporters) is prescribed as follows:

a) A new exporter may submit a dossier requesting the investigation body to conduct a review and determine a separate anti-dumping duty rate;

b) Based on the investigation authority's review result, the Minister of Industry and Trade shall issue a decision to apply a separate antidumping duty rate to the reviewed new exporter;

c) The time limit for review for a new exporter is 3 months from the date of issuance of the review decision and, when necessary, may be extended once for not more than 3 months.

4. Review of the range of goods subject to anti-dumping measures is prescribed as follows:

a) Related parties in an investigation case may request the investigation authority to review the range of goods subject to anti-dumping measures;

b) A dossier of request for review must include evidence and information proving that the application of anti-dumping measures to all the goods is inappropriate;

c) Based on the investigation authority's review conclusion, the Minister of Industry and Trade shall decide to adjust the range of goods subject to anti-dumping measures;

d) The time limit for review of the range of goods subject to antidumping measures is 6 months from the date of issuance of the review decision and, when necessary, may be extended once for not more than 3 months.

**Section 3**  
**COUNTERVAILING AGAINST IMPORTS INTO VIET NAM**

**Article 83. Countervailing measures**

1. Countervailing measures against imports into Viet Nam (hereinafter referred to as countervailing measures) are measures which are applied in the case subsidised imports into Viet Nam cause material injury or threaten to cause material injury to a domestic industry or impede the formation of a domestic industry.

2. Countervailing measures include:

- a) Imposition of countervailing duties;
- b) Commitment made by an organisation or individual or the government of the manufacturing/exporting country with a competent Vietnamese state agency on voluntary termination of subsidies, reduction of subsidy levels, or commitment to adjust export prices;
- c) Other countervailing measures.

**Article 84. Subsidies**

Subsidy means a contribution made in the following forms by the government or any public organisation of the country having imports into Viet Nam which brings benefits to the subsidy-receiving organisation or individual:

- 1. The Government actually transfers funds directly to the organisation or individual or directly undertakes indebtedness for the latter;
- 2. The Government ignores or does not collect the amounts which the organisation or individual is obliged to pay to the Government;
- 3. The Government provides the organisation or individual with assets, goods or services other than common infrastructure facilities;
- 4. The Government purchases assets, goods or services from the organisation or individual at prices higher than market prices;
- 5. The Government sells assets, goods or services to the organisation or individual at prices lower than market prices;
- 6. The Government contributes funds to a financing facility; entrusts, assigns or directs and requests a private organisation to perform one or more than one activity

specified in Clauses 1 through 5 of this Article which normally belongs to its functions and is actually not different from its routine activities;

7. Any form of support in terms of income or price;

8. Any other form of subsidy other than those referred to in Clauses 1 through 7 of this Article, which has been determined on the principles of fairness, reasonability, and non-violation of treaties to which the Socialist Republic of Viet Nam is a contracting party.

**Article 85. Subsidies likely to be subject to countervailing measures**

The following subsidies are likely to be subject to countervailing measures, unless otherwise provided by treaties to which the Socialist Republic of Viet Nam is a contracting party:

1. Subsidies based on export results;

2. Subsidies aiming to prioritise the use of home-made goods over imports;

3. Subsidies referred to in Article 84 of this Law which nullify or affect the interests which Viet Nam is directly or indirectly entitled to under treaties to which the Socialist Republic of Viet Nam is a contracting party.

**Article 86. Conditions for application of countervailing measures**

1. Countervailing measures shall be applied to imports when all the following conditions are fully satisfied:

a) The goods are identified as being subsidised under Articles 84 and 85 of this Law with specific subsidy levels, except the case specified in Clause 2 of this Article;

b) A domestic industry suffers material injury or is threatened to suffer material injury or its formation is impeded;

c) There exists a causal relationship between the import of subsidised goods specified in Point a of this Clause and the injury caused to a domestic industry referred to in Point b of this Clause.

2. Countervailing measures shall not be applied to manufacturers/exporters in developed countries that have a subsidy not exceeding 1% of the price of exports to Viet Nam, manufacturers/exporters in developing countries that have a subsidy not exceeding 2% of the price of exports to Viet Nam, and manufacturers/exporters in underdeveloped countries that have a subsidy not exceeding 3% of the price of exports to Viet Nam.

3. In the case the volume or quantity of imports originating from a developing country does not exceed 4% of the total volume or quantity of similar imports into Viet

Nam and the aggregate volume or quantity of goods originating from developing countries that satisfy the above condition does not exceed 9% of the total volume or quantity of similar imports into Viet Nam, these countries will be excluded from the scope of application of countervailing measures.

**Article 87. Grounds for launching investigations for application of countervailing measures**

1. An investigation for application of countervailing measures shall be launched when organisations or individuals representing a domestic industry submits a dossier of request for application of these measures.

2. Organisations or individuals that submit a dossier of request for application of countervailing measures shall be regarded as representing a domestic industry when all the following conditions are fully satisfied:

a) The total volume or quantity of like products of the domestic manufacturers that submit the dossier and domestic manufacturers that support the request for application of countervailing measures is larger than the total volume or quantity of like products of the domestic manufacturers that oppose such request;

b) The total volume or quantity of like products of the domestic manufacturers that submit the dossier and domestic manufacturers that support the request for application of countervailing measures accounts for at least 25% of the total volume or quantity of like products manufactured by the domestic industry concerned.

3. The Minister of Industry and Trade shall decide to launch an investigation when having conspicuous evidence that the import of subsidised goods causes material injury or threatens to cause material injury to a domestic industry or impedes the formation of a domestic industry.

**Article 88. Contents of investigation for application of countervailing measures**

1. Determination of subsidised imports into Viet Nam and subsidy levels covers:

a) Determination of the value of subsidies;

b) Determination of export prices;

c) Determination of specific subsidy levels for each foreign manufacturer/exporter.

2. Identification of material injury or the threat of material injury to a domestic industry or identification of the impediment to the formation of a domestic industry covers:

a) Determination of the volume or quantity of subsidised imports and their impacts on the prices of like products in the domestic market;

b) Identification of impacts of subsidised imports on a domestic industry.

3. Determination of the causal relationship between the import of subsidised goods and the material injury or threat of material injury to a domestic industry or impediment to the formation of a domestic industry.

4. Identification of socio-economic impacts of countervailing measures.

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

1. The imposition of provisional countervailing duties shall be decided by the Minister of Industry and Trade based on the preliminary determination of the investigation authority. Provisional countervailing duty rates must not exceed the subsidy levels stated in the preliminary determination.

The time limit for imposition of provisional countervailing duties is 120 days from the effective date of the decision on imposition of provisional countervailing duties. The Minister of Industry and Trade may extend such time limit for not more than 60 days.

2. The application of commitment measures is prescribed as follows:

a) After the preliminary determination is made and before the investigation finishes, the manufacturer/exporter of investigated goods or the government of the subsidy-providing country may make a commitment with the investigation authority that he/she/it will voluntarily terminate the provision of subsidies, reduce subsidy levels, adjust export prices or apply other appropriate measures;

b) The investigation authority may accept or reject the commitment or request adjustment of the commitment after consulting organisations or individuals representing the domestic industry concerned.

3. The imposition of countervailing duties is prescribed as follows:

a) If no commitment is made under Clause 2 of this Article, after finishing the investigation, the investigation authority shall announce its final determination on the investigation contents specified in Article 80 of this Law. The investigation authority's final determination and major grounds for making such conclusion shall be notified via an appropriate means to related parties;

b) Based on the investigation authority's final determination, the Minister of Industry and Trade shall issue a decision to impose or not to impose countervailing duties;

c) Countervailing duty rates must not exceed the subsidy levels stated in the final determination;

d) The time limit for imposition of countervailing duties is 5 years from the effective date of the decision on imposition of countervailing duties, except the case of extension specified in Clause 2, Article 90 of this Law.

4. The imposition of retrospective countervailing duties is prescribed as follows:

a) In the case the investigation authority's final determination identifies material injury or a threat of material injury to a domestic industry, the Minister of Industry and Trade may decide to impose retrospective countervailing duties;

b) Retrospective countervailing duties shall be imposed on goods imported within 90 days before the imposition of provisional countervailing duties if these goods are concluded as being subsidised; the volume or quantity of subsidised imports into Viet Nam sees an unusual increase in the period from the time of commencement of the investigation to the time of imposition of provisional countervailing duties, causing hard-to-remedy injury to a domestic industry.

5. The application of other countervailing measures must comply with treaties to which the Socialist Republic of Viet Nam is a contracting party or principles of international law.

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

1. The review at the request of related parties in an investigation case is prescribed as follows:

a) After 1 year from the date of issuance of a decision on application of countervailing measures, the Minister of Industry and Trade may decide to review the application of these measures at the request of one or more than one related party in the investigation case and after considering the evidence provided by the requester;

b) The performance of review-related procedures must not impede the application of countervailing measures currently in force;

c) The time limit for a review prescribed in this Clause is 6 months from the date of issuance of the review decision and, when necessary, may be extended once for not more than 3 months.

2. Sunset review is prescribed as follows:

a) One year before the expiration of the time limit for application of countervailing measures, the Minister of Industry and Trade shall issue a decision to conduct sunset review of such application;

b) The review aims to assess the necessity, reasonability and socioeconomic impacts of the continued application of countervailing measures;

c) Based on the investigation authority's review result, the Minister of Industry and Trade shall issue a decision to extend or not to extend the time limit for application of countervailing measures;

d) The time limit for sunset review is 9 months from the date of issuance of the review decision and, when necessary, may be extended once for not more than 3 months.

3. Review for new exporters is prescribed as follows:

a) A new exporter may submit a dossier requesting the investigation body to conduct a review and determine a separate countervailing duty rate;

b) Based on the investigation authority's review result, the Minister of Industry and Trade shall issue a decision to apply a separate countervailing duty rate to the reviewed new exporter;

c) The time limit for a review for the new exporter is 3 months from the date of issuance of the review decision and, when necessary, may be extended once for not more than 3 months.

4. Review of the range of goods subject to countervailing measures is prescribed as follows:

a) Related parties in an investigation case may request the investigation authority to review the range of goods subject to countervailing measures;

b) A dossier of request for review must include evidence and information proving that the application of countervailing measures to all the goods is inappropriate;

c) Based on the investigation authority's review conclusion, the Minister of Industry and Trade shall decide to adjust the range of goods subject to countervailing measures;

d) The time limit for a review of the range of goods subject to countervailing measures is 6 months from the date of issuance of the review decision and, when necessary, may be extended once for not more than 3 months.

5. Changed-circumstance review is prescribed as follows:



a) At any time after the official countervailing duties take effect, if one or more than one related party in an investigation case sees a new circumstance causing a material change in the subsidy levels for goods subject to official countervailing duties, leading to no subsidies or negligible subsidies, or no longer causing material injury or a threat of material injury to a domestic industry, or no longer causing an impediment to the formation of a domestic industry, such party may request the investigation authority to conduct a changed-circumstance review;

b) A dossier of request for review must include evidence and information proving that the application of countervailing measures is no longer appropriate as a result of a changed circumstance;

c) Based on the investigation authority's review conclusion, the Minister of Industry and Trade shall decide to adjust or terminate countervailing measures;

d) The time limit for a changed-circumstance review is 9 months from the date of issuance of the review decision and, when necessary, may be extended once for not more than 3 months.

#### **Section 4**

### **SAFEGUARDS IN THE IMPORT OF FOREIGN GOODS INTO VIET NAM**

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

1. Safeguard measures in the import of foreign goods into Viet Nam (hereinafter referred to as safeguard measures) are measures which are applied against goods that are excessively imported into Viet Nam, causing serious injury or threatening to cause serious injury to a domestic industry.

2. Safeguard measures include:

a) Imposition of safeguard duties;

b) Application of import quotas;

c) Application of tariff quotas;

d) Grant of import permits;

dd) Other safeguard measures.

#### **Article 92. Conditions for application of safeguard measures**

1. Safeguard measures may only be applied to imports when all the following conditions are fully satisfied:

a) The goods are excessively imported with their volume or quantity seeing an absolute or relative increase over the volume or quantity of like products manufactured domestically;

b) A domestic industry suffers serious injury or a threat of serious injury;

c) The increase in the volume or quantity of imports referred to in Point a of this Clause is the main cause of the serious injury or threat of serious injury to a domestic industry.

2. In the case the volume or quantity of imports originating from a developing country does not exceed 3% of the total volume or quantity of like products imported into Viet Nam and the aggregate volume or quantity of goods originating from developing countries that satisfy the above condition does not exceed 9% of the total volume or quantity of like products imported into Viet Nam, these countries will be excluded from the scope of application of safeguard measures.

#### **Article 93. Grounds for launching investigations for application of safeguard measures**

1. An investigation for application of safeguard measures shall be launched when domestic manufacturers of like products or directly competitive products which can possibly be accepted by buyers to replace goods subject to safeguard measures for their price advantages and use purpose submit a dossier of request for application of these measures.

2. The dossier contains clear evidence that the goods excessively imported into Viet Nam cause serious injury or threaten to cause serious injury to a domestic industry.

3. The Minister of Industry and Trade shall decide to launch an investigation when having clear evidence that the goods excessively imported into Viet Nam cause serious injury or threaten to cause serious injury to a domestic industry.

#### **Article 94. Contents of investigation for application of safeguard measures**

1. Determination of goods excessively imported into Viet Nam and increase levels of imports.

2. Identification of serious injury or the threat of serious injury to a domestic industry.

3. Determination of the causal relationship between the excessive import of goods as prescribed in Clause 1 of this Article and the injury to a domestic industry as prescribed in Clause 2 of this Article.

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

1. The imposition of provisional safeguard measures shall be decided by the Minister of Industry and Trade based on the preliminary determination of the investigation authority before finishing the investigation, if it is deemed that delayed implementation of safeguard measures might cause serious injury or threaten to cause serious injury to a domestic industry and such injury is hardly remediable.

The time limit for application of provisional safeguard measures is 200 days from the effective date of the decision on application of provisional safeguard measures.

2. The application of official safeguard measures is prescribed as follows:

a) After finishing the investigation, the investigation authority shall announce its final determination on the investigation contents prescribed in Article 94 of this Law. The investigation authority's final determination and major grounds for making such conclusion shall be notified via an appropriate means to related parties;

b) Based on the investigation authority's final determination, the Minister of Industry and Trade shall issue a decision to apply or not to apply official safeguard measures;

c) The time limit for application of safeguard measures, including the period of application of provisional safeguard measures, is 4 years, except the case of extension specified in Clause 2, Article 96 of this Law;

d) The total period for application of safeguard measures, including the period of application of provisional safeguard measures and official safeguard measures and extended period, is 10 years.

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

1. Interim review is prescribed as follows:

a) In the case the time limit for application of safeguard measures exceeds 3 years, the investigation authority shall review safeguard measures before the expiration of half of this time limit for making a conclusion on the continuation, termination or reduction of safeguard measures;

b) Based on the investigation authority's review result, the Minister of Industry and Trade shall issue a decision on the continuation, termination or reduction of safeguard measures;

c) The time limit for an interim review of the application of safeguard measures is 6 months from the date of issuance of the review decision and, when necessary, may be extended once for not more than 3 months.

2. Sunset review is prescribed as follows:

a) Before the expiration of the time limit for application of safeguard measures, domestic manufacturers of like products or directly competitive products that wish to have this time limit extended shall submit a dossier of request for extension of the time limit for application of safeguard measures. Such dossier must contain evidence showing that the domestic industry concerned has taken necessary adjustment measures to raise the competitiveness and that the termination of safeguard measures might cause serious injury or threaten to cause serious injury to the domestic industry concerned;

b) The investigation authority may conduct sunset review either at the request for extension of the time limit for application of safeguard measures prescribed in Point a of this Clause or on its own discretion;

c) Based on the investigation authority's review result, the Minister of Industry and Trade shall issue a decision to terminate, or extend the time limit for, application of safeguard measures;

d) The extent of application of safeguard measures in the extended period must not be higher than that during the previous time limit for application of safeguard measures;

dd) The time limit for a sunset review is 6 months from the date of issuance of the review decision and, when necessary, may be extended once for not more than 6 months.

3. Review of the range of goods subject to safeguard measures is prescribed as follows:

a) Importers of goods subject to safeguard measures may request the investigation authority to review the range of goods subject to safeguard measures;

b) A dossier of request for review must include evidence and information proving that the application of safeguard measures to all the goods is inappropriate;

c) Based on the investigation authority's review conclusion, the Minister of Industry and Trade shall decide to adjust the range of goods subject to safeguard measures;

d) The time limit for a review of the range of goods subject to safeguard measures is 6 months from the date of issuance of the review decision and, when necessary, may be extended once for not more than 3 months.

#### **Article 97. Re-application of safeguard measures**

1. Safeguard measures already applied to a certain type of goods may be re-applied to such goods as follows:

a) If safeguard measures have been applied for 4 years or more, including the extended period (if any), they may be re-applied only after a period at least equal to half of the previous application period;

b) If safeguard measures have been applied for between over 180 days and under 4 years, including the extended period (if any), they may be re-applied only after at least 2 years from the date of termination of these measures;

c) If safeguard measures have been applied for 180 days or fewer, they may be re-applied only after at least 1 year from the date of commencement of application of such measures provided that these measures have not been applied for more than twice over 5 years before the effective date of re-applied measures.

2. The order and procedures for investigation for re-application of safeguard measures are the same as those for investigation for application of safeguard measures.

#### **Article 98. Compensation**

1. Compensation for injury due to the application of safeguard measures and compensation levels must comply with Vietnamese law and treaties to which the Socialist Republic of Viet Nam is a contracting party.

2. Compensation for injury and compensation levels shall be determined based on results of consultation among related parties.

3. The Ministry of Industry and Trade shall assume the prime responsibility for, and coordinate with related ministries and ministerial-level agencies in, working out a compensation plan, and submit it to the Prime Minister for approval before consulting the party that suffers injury due to application of safeguard measures.

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

1. Special safeguard is a safeguard measure which the Minister of Industry and Trade decides to apply in the case there is an excessive increase in imports into Viet Nam

as a result of tax reduction according to a roadmap under the relevant treaty to which the Socialist Republic of Viet Nam is a contracting party.

2. Special safeguard measures may only be applied to goods originating from specified countries in conformity with treaties to which the Socialist Republic of Viet Nam is a contracting party.

3. Investigation for application of special safeguard measures must comply with treaties to which the Socialist Republic of Viet Nam is a contracting party.

[...]

## **Chapter VIII**

### **IMPLEMENTATION PROVISIONS**

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

1. This Law takes effect on 1 January 2018.

2. Except for cases specified in Article 113 of this Law, the following ordinances will cease to be effective on the effective date of this Law:

a) Ordinance No. 42/2002/PL-UBTVQH10 on Safeguards in the Import of Foreign Goods into Viet Nam;

b) Ordinance No. 20/2004/PL-UBTVQH11 on Anti-dumping of Imports into Viet Nam;

c) Ordinance No. 22/2004/PL-UBTVQH11 on Measures against Subsidised Imports into Viet Nam.

3. To annul Clause 3, Article 28; Clause 3, Article 29; Clause 3, Article 30; and Articles 31, 33, 242, 243, 244, 245, 246 and 247, of Commercial Law No. 36/2005/QH11.

#### **Article 113. Transitional provision**

From the effective date of this Law, trade remedy cases of which competent state agencies receive complaint or investigation dossiers before the effective date of this Law will continue to be considered and settled in accordance with Ordinance No. 42/2002/PL-UBTVQH10 on Safeguards in the Import of Foreign Goods into Viet Nam, Ordinance No. 20/2004/PL-UBTVQH11 on Anti-dumping of Imports into Viet Nam, and Ordinance No. 22/2004/PL-UBTVQH11 on Measures against Subsidised Imports into Viet Nam./.

---

*This Law was passed on 12 June 2017, by the 14th National Assembly of the Socialist Republic of Vietnam in its 3rd session.*

**CHAIRWOMAN OF THE NATIONAL ASSEMBLY**  
**Nguyen Thi Kim Ngan**