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Hanoi, 15 January 2018

**DECREE**

**Detailing a number of articles of the Law on Foreign Trade Management  
regarding trade remedies**

*Pursuant to the Law on Organisation of the Government dated 19 June 2015;  
Pursuant to the Law on Foreign Trade Management dated 12 June 2017;  
At the proposal of the Minister of Industry and Trade;  
The Government promulgates the Decree detailing a number of articles of the  
Law on Foreign Trade Management regarding trade remedies.*

**Chapter I**

**GENERAL PROVISIONS**

**Article 1. Scope of regulation**

This Decree details a number of articles of the Law on Foreign Trade Management regarding the bases, order, procedures, time limit, contents, and grounds for termination of investigation of trade remedy cases; application and review of trade remedies; methods of determining injury to a domestic industry; anti-circumvention of trade remedies; application and review of trade remedies; responsibility of related agencies to coordinate in the investigation process; exemption from trade remedies; and handling of trade remedies applied to Vietnamese exports.

**Article 2. Subjects of application**

1. State management agencies competent to investigate, apply and handle trade remedies.

2. Vietnamese and foreign traders, and other domestic and foreign agencies, organisations and individuals involved in the investigation, application and handling of trade remedies.

**Article 3. Interpretation of terms**

In addition to the terms referred to in the Law on Foreign Trade Management, in this Decree, the terms below are construed as follows:

1. Evidence means a fact used by the trade remedy investigation authority as a ground for settlement of a trade remedy case.

2. Requesting party means a lawful representative of a domestic industry that submits a dossier of request for investigation for application of trade remedies or investigation for anti-circumvention of trade remedies.

3. Requested party means a foreign manufacturer or exporter against which the requesting party submits a dossier of request for investigation for application of trade remedies or investigation for anti-circumvention of trade remedies or which is investigated by the investigation authority under a decision of the Minister of Industry and Trade.

4. Investigation period means the period of time set by the investigation authority for collecting information, evidence and data to serve investigation.

5. Investigation stage means the period of time during which the investigation authority conducts investigation, counted from the date the Minister of Industry and Trade decides to launch an investigation to the date the investigation finishes.

6. Consultation means the exchange and expression by related parties of their opinions on a case with/to the investigation authority in accordance with law.

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

1. The determination of a domestic industry must comply with Clause 1, Article 69 of the Law on Foreign Trade Management.

2. The volume or quantity of manufactured goods accounting for at least 50% of the total volume or quantity of domestically manufactured like or directly competitive products shall be regarded as making up a major percentage in the aggregate output of goods of a domestic industry as prescribed in Clause 1, Article 69 of the Law on Foreign Trade Management. The investigation authority may consider a lower percentage if having evidence that such percentage is high enough to be considered a major percentage in the aggregate output of goods of a domestic industry.

3. In anti-dumping and countervailing investigation cases, the manufacturers in a certain geographical market in the Vietnamese territory may be considered a domestic industry if the following conditions are fully met:

a) They sell the whole or almost the whole of their manufactured goods in such market;

b) The demand of such market is not significantly satisfied by the domestic manufacturers of like products in other geographical markets.

In this case, the investigation authority may still determine injury even when the domestic manufacturers of like products in other geographical markets do not suffer any injury if it can ascertain that dumping or subsidisation acts occur only in such geographical market and cause injury to all or almost all manufacturers in such market.

**Article 5. Determination of the relationship between manufacturers of like products and exporters or importers of goods under investigation for application of trade remedies**

1. Manufacturers of like products shall be regarded as having a relationship with exporters or importers of goods under investigation for application of trade remedies under Clause 1, Article 69 of the Law on Foreign Trade Management in the following cases:

- a) Either party directly or indirectly controls the other party;
- b) Both parties are directly or indirectly controlled by a third party;
- c) Both parties directly or indirectly control a third party.

2. Either party may be considered controlling the other party when it has the right to dominate the latter's financial policies and activities.

**Article 6. Refund of trade remedy duties**

1. The refund of trade remedy duties must comply with Clauses 5 and 6, Article 68 of the Law on Foreign Trade Management.

2. Trade remedy duty amounts refunded under Clause 1 of this Article do not earn interest.

3. Procedures for refund of trade remedy duties are the same as those for refund of overpaid import duty amounts prescribed in the law on tax administration.

**Article 7. Exemption from trade remedies**

1. The Ministry of Industry and Trade may consider not applying a trade remedy through granting exemption for a number of types of goods on the principle that such exemption does not reduce the overall effectiveness of the trade remedy.

2. An organisation or individual shall submit a dossier of request for exemption from a trade remedy (hereinafter referred to as dossier of request for exemption), made according to the form issued by the investigation authority, to the Ministry of Industry and Trade for consideration of the exemption.

3. Within 7 working days after receiving a dossier of request for exemption, the investigation authority shall notify the dossier submitter of the completeness and validity of the dossier. If the dossier is incomplete and invalid, the investigation authority shall notify such to the dossier submitter for supplementation.

4. Within 45 days after receiving a complete and valid dossier of request for exemption, the Ministry of Industry and Trade shall consider and decide on the exemption from a trade remedy. If refusing to grant the exemption, the investigation authority shall notify the reason to the dossier submitter.

5. If the organisation or individual that has been granted exemption from a trade remedy fails to comply with regulations on and conditions for exemption, the Ministry

of Industry and Trade may revoke the decision on the exemption and notify as such to the customs office for handling under regulations.

6. The Minister of Industry and Trade shall guide in detail cases of exemption from trade remedies.

### **Article 8. Management of the import of goods under investigation for application of trade remedies**

1. From the date of issuance of a decision on investigation for application of a trade remedy to the date the investigation finishes, the Ministry of Industry and Trade may apply the regime of import declaration to goods under investigation in order to serve the investigation. Such declaration will not restrict the quantity, volume or value of imported goods.

2. A dossier of import declaration must comprise:

a) An import declaration, made according to the form issued by the investigation authority;

b) The commercial invoice: 1 copy (appended with the trader's certified true-copy stamp);

c) The quality certificate or another paper of equivalent validity, issued by the manufacturer: 1 copy (appended with the trader's certified true-copy stamp).

3. Within 2 working days after receiving an import declaration dossier, the investigation authority shall notify the dossier submitter of the completeness and validity of the dossier. If the dossier is incomplete and invalid, the investigation authority shall notify such to the dossier submitter for supplementation.

4. Within 3 working days after receiving a complete and valid dossier, the investigation authority shall send by post the written certification of the import declaration to the dossier submitter's address stated in the declaration.

5. The customs office shall coordinate with the Ministry of Industry and Trade in supervising the import declaration for goods under investigation.

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

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

a) To have access to information provided by other related parties to the investigation authority, except confidential information specified in Article 11 of this Decree;

b) To send their opinions on draft preliminary determinations, final determinations, review conclusions, or conclusions on investigation on anti-circumvention of trade remedies within 7 days after receiving the drafts;

c) To propose to the investigation authority to extend the time limit for information provision or for filling out questionnaires;

d) To request the keeping of information confidentiality under Article 11 of this Decree;

dd) To participate in consultation meetings, express their views and provide evidence and materials relating to trade remedy cases;

e) To authorise others to participate on their behalf in the process of settling trade remedy cases;

g) To request the investigation authority to hold separate consultation meetings under Clause 1, Article 13 of this Decree;

h) To lodge complaints about and initiate lawsuits against decisions of the Minister of Industry and Trade in accordance with the Vietnamese law on complaints and initiation of lawsuits.

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

a) To timely provide sufficient, truthful and accurate evidence, information and materials relating to their requests;

b) To promptly provide sufficient, truthful and accurate evidence, information and materials at the request of the investigation authority;

c) To comply with decisions of the Minister of Industry and Trade.

3. A related party defined in Article 74 of the Law on Foreign Trade Management, which is neither the requesting party nor the requested party, has the following rights and obligations:

a) To provide truthful information and necessary materials relating to trade remedy investigation cases on their own initiative or at the request of the investigation authority;

b) To request the investigation authority to ensure information confidentiality under Article 11 of this Decree;

c) To have access to the investigation authority's information on trade remedy investigation cases, except for confidential information referred to in Article 11 of this Decree;

d) To participate in consultation meetings, express their views and provide evidence and materials relating to trade remedy cases.

4. Related parties are not required to pay a charge for participation in settling trade remedy cases involving goods imported into Viet Nam.

#### **Article 10. Provisions regarding non-cooperation of related parties in trade remedy cases**

1. If any related party refuses to participate in a trade remedy case or refuses to provide necessary evidence or causes significant obstacles to the completion of the investigation, preliminary determinations or final determinations in relation to that party shall be made based on available information.

2. If any related party provides inaccurate or confusing evidence, such evidence shall not be considered, and preliminary determinations or final determinations in relation to that party shall be made based on available information.

3. Non-cooperating related parties referred to in Clauses 1 and 2 of this Article shall not be granted exemption from trade remedies prescribed in Article 7 of this Decree.

#### **Article 11. Information confidentiality**

1. The investigation authority shall disclose non-confidential information relating to trade remedy cases. Information disclosure shall be made via electronic means or other means as suitable to the technical infrastructure of the investigation authority.

2. The investigation authority shall keep confidential the information provided by related parties, including:

- a) National secrets and other secrets as prescribed by law;
- b) Information which is classified as confidential by the provider and the provider's request for its confidentiality is accepted by the investigation authority.

3. Information provided by a related party shall be classified into confidential and non-confidential. For confidential information, the related party shall enclose it with a written explanation stating the reasons for confidentiality and a written summary of the confidential information that may be disclosed to other related parties.

4. If rejecting the information provider's request for information confidentiality or the information provider fails to provide a written summary of the confidential information prescribed in Clause 3 of this Article, the investigation authority may not use such information.

5. Before the Minister of Industry and Trade decides to launch an investigation, the investigation authority shall restrict the disclosure of information about the case.

#### **Article 12. On-site investigations**

1. The investigation authority may conduct on-site investigations to verify the completeness, accuracy and truthfulness of evidence and information provided by related parties.

2. The investigation authority may conduct an on-site investigation only when such is consented by the related party subject to investigation.

3. Before conducting an on-site investigation, the investigation authority shall send a notice of the investigation and investigation contents to the related party that is subject to investigation.

4. If wishing to conduct an on-site investigation abroad, the investigation authority shall notify such to the representative of the government of the country where the enterprise subject to investigation is located.

### **Article 13. Consultation**

1. In the course of investigation for application of trade remedies, review of trade remedies, or anti-circumvention of trade remedies, the investigation authority may hold separate consultations with related parties at the latter's written request provided that such consultations do not affect the time limit for investigation or review.

2. Before finishing the investigation, the investigation authority shall hold a public consultation meeting with related parties. The investigation authority shall notify related parties of such consultation meeting at least 30 days before it is held.

3. At least 7 days before the opening date of a public consultation meeting, related parties shall send a registration for participation in the meeting to the investigation authority, which may specify issues to be consulted and their arguments. Related parties are not required to pay a charge for participation in a consultation meeting.

4. Within 7 days after a public consultation meeting closes, related parties shall send to the investigation authority their written opinions presented at the meeting.

5. Within 15 days after a public consultation meeting is held under Clause 2 of this Article, the investigation authority shall disclose the written consultation record to related parties.

### **Article 14. Information provision by Vietnamese state management agencies and trade associations**

1. Within the ambit of their powers and functions, Vietnamese customs offices shall:

a) Timely provide sufficient data and information on imported goods under investigation at the proposal of the investigation authority;

b) Coordinate with the investigation authority in providing anonymous data and information about the quantity or volume and value of imported and exported goods related to the investigation, application and handling of trade remedies at the request of enterprises and trade associations. The order, procedures and expenses of provision and cases where information provision is refused, and other contents must comply with the Law on Access to Information.

2. From the effective date of a decision on application of trade remedies, the customs office shall provide information about trade remedy duty amounts, volume or quantity and value of imported goods subject to trade remedies at the request of the investigation authority.

3. Trade associations and the Viet Nam Chamber of Commerce and Industry shall, within the ambit of their functions and powers, coordinate with the investigation

authority in providing information and data on import, export, production and trading of goods under their management at the request of the investigation authority.

**Article 15. Application of trade remedies to underdeveloped or developing countries and territories**

1. The application of trade remedies to goods originating from an underdeveloped or developing country or territory (hereinafter referred to as country) must comply with Clauses 2 and 3, Article 86, and Clause 2, Article 92, of the Law on Foreign Trade Management.

2. The list of underdeveloped and developing countries shall be determined by the investigation authority based on reliable data.

**Chapter II**

**INVESTIGATION AND APPLICATION OF ANTI-DUMPING AND  
COUNTERVAILING MEASURES**

**Section 1**

**DUMPING AND SUBSIDISATION**

**Sub-section 1**

**DUMPING**

**Article 16. Methods of determining normal prices**

1. In the case like products are sold in the market of an exporting country in a significant volume or quantity, their normal prices are the comparable prices of like products currently sold in that market under normal trade conditions specified in Article 17 of this Decree.

2. In the case no like products are sold in the market of an exporting country or such sale does not permit reasonable comparison due to specific conditions of that market or because like products are sold in the market of an exporting country in a negligible volume or quantity, their normal prices may be:

a) The prices of like products exported to a suitable third country provided that such prices are representative;

b) Set by the investigation authority based on reasonable costs of goods plus other reasonable expenses and reasonable profit in each stage from manufacturing to sale in the market of the exporting country or a third country.

3. The volume or quantity of like products sold in the market of an exporting country referred to in Clause 1 of this Article shall be considered significant if it accounts for at least 5% of the total volume or quantity of goods under investigation



which are exported to Viet Nam. The investigation authority may consider a lower percentage if having evidence that such percentage is high enough for conducting a reasonable comparison.

#### **Article 17. Normal trade conditions**

Like products shall be considered being sold in the market of an exporting country under normal trade conditions, except:

1. Like products sold in the domestic market of an exporting country or exported to the market of a third country at a price lower than their production cost for at least 6 months, and in a volume or quantity accounting for less than 20% of the total volume or quantity of goods sold in that country or exported to the market of a third country;

2. Like products sold in the domestic market of an exporting country or exported to the market of a third country between the parties that have a relationship as prescribed in Article 5 of this Decree and at a price not reflecting the market price;

3. Like products sold in the domestic market of an exporting country or exported to the market of a third country on the basis of offsetting agreements.

#### **Article 18. Methods of determining export prices**

1. Export price means the selling price of goods exported to Viet Nam under investigation based on lawful transaction documents.

2. If no export price is available or there is evidence that the export price is unreliable, the investigation authority may determine the export price based on:

a) The price of reselling goods to the first independent customer. The first independent customer is understood as a customer that has no relationship with the related manufacturer or exporter defined in Article 5 of this Decree;

b) Other reasonable grounds.

2. An export price shall be considered unreliable as prescribed in Clause 2 of this Article if the manufacturer, exporter, importer or third party has a relationship prescribed in Article 5 of this Decree or has offsetting agreements.

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

When determining the dumping margin, the investigation authority shall consider:

1. Adjusting the normal price and export price to the same stage of the goods sale process.

2. Adjusting the normal price and export price to the same time of calculation or at the closest times of calculation.

3. Adjusting the normal price and export price in the case where there are differences in tax, sale condition, commercial level, volume, physical properties or other factors which are deemed appropriate by the investigation authority.

4. When converting currencies, using the exchange rate applicable at the time of goods sale, except the case of sale of exported goods under a definite-term contract which states the applicable exchange rate. In the case of exchange rate fluctuations, the investigation authority shall make appropriate adjustments based on such fluctuations in the investigation period.

5. Making other adjustments deemed appropriate by the investigation authority.

#### **Article 20 Methods of determining dumping margins**

1. The dumping margin shall be determined based on the difference between the normal price and export price under Articles 16, 17, 18 and 19 of this Decree.

2. The dumping margin shall be determined by comparing:

- a) The weighted average of the normal price with that of the export price;
- b) The normal price with the export price for each transaction;
- c) The weighted average of the normal price with the export price for each transaction in the case there exist significant differences in the export price between different buyers, geographical areas and times of export.

3. The investigation authority shall determine separate dumping margins for goods under investigation of each foreign manufacturer or exporter in an investigation case for application of anti-dumping measures, except the case prescribed in Clause 4 of this Article.

4. In the case the number the requested parties or the types of goods under investigation is too high, the investigation authority may narrow the scope of investigation by using the method of sample selection prescribed in Article 36 of this Decree for determining the dumping margin.

5. In the case the investigation authority narrows the scope of investigation under Clause 4 of this Article, the dumping margin shall be applied as follows:

a) A separate dumping margin shall be applied to goods under investigation of each manufacturer or exporter that has been selected as a sample and cooperated with the investigation authority in the investigation stage;

b) A separate dumping margin shall be applied to goods under investigation of the manufacturer or exporter that has been selected as a sample but refused to cooperate or inadequately cooperated with the investigation authority in the investigation stage;

c) A separate dumping margin shall be applied to goods under investigation of the manufacturer or exporter that is not selected as a sample but voluntarily participates and cooperates with the investigation authority in the investigation stage;

d) The dumping margin shall be applied to goods under investigation of remaining manufacturers or exporters.

## **Sub-section 2**

### **SUBSIDISATION**

#### **Article 21. Specificity of subsidies**

1. Subsidies prescribed in Article 84 of the Law on Foreign Trade Management shall be considered specific when they are applied exclusively to certain organisations, individuals or industries or applied only to organisations, individuals or industries in certain geographical areas of the countries under investigation for application of countervailing measures.

2. The specificity of a subsidy shall be determined as follows:

a) There is an explicit limit to access to the subsidy to one organisation or individual or a group of organisations or individuals or a group of certain industries;

b) There are objective criteria and conditions for eligibility for the subsidy established in legal documents but not automatically applied in practice;

c) The subsidy is explicitly limited to organisations and individuals located in a certain geographical area;

d) In the case the subsidy is not specific as prescribed in Point a, b or c of this Clause, the investigation authority may still determine its specificity on the basis of considering such factors as limited number of subsidised enterprises, disproportionate distribution of the subsidy, and manner of grant of the subsidy by competent authorities.

3. The subsidies referred to in Clauses 1 and 2, Article 85 of the Law on Foreign Trade Management are considered specific.

#### **Article 22. Methods of determining subsidy values**

1. Methods of determining subsidy values are prescribed below:

a) If a subsidy is a non-refundable grant provided to an organisation or individual, its value is the actual value of such grant;

b) If a subsidy is provided by a government or public organisation as a loan to an organisation or individual, its value is the difference between the payable interest on such loan under market conditions and the interest to be paid for such loan by such organisation or individual;

c) If a subsidy is provided by a government or public organisation in the form of loan guarantee, its value is the difference between the payable interest in the absence of guarantee and the payable interest in the presence of guarantee;

d) If a subsidy is provided by a government or public organisation in the form of direct transfer of capital or shares to an enterprise, its value is the actual capital amount the enterprise receives;

dd) If a subsidy is provided in the form of purchase of goods or services by a government or public organisation from an organisation or individual at a price higher than the market price, its value is the difference between the market price and the price to be paid by the government or public organisation for such goods or services;

e) If a subsidy is provided in the form of sale of goods or services by a government or public organisation to an organisation or individual at a price lower than the market price, its value is the difference between the market price and the actual selling price of such goods or services;

g) If a subsidy is provided in the form of non-collection by a government or public organisation of an amount which the concerned organisation or individual has to pay, its value is the difference between the law-prescribed payable amount and actually paid amount.

2. The values of subsidies in other forms shall be calculated in an equal and reasonable manner in conformity with international practices.

## **Section 2**

### **DETERMINATION OF INJURY TO A DOMESTIC INDUSTRY**

#### **Article 23. Determination of material injury to a domestic industry**

1. Material injury to a domestic industry shall be determined on the basis of considering the following factors:

a) The increase in the volume or quantity of dumped or subsidised goods which are imported into Viet Nam in absolute terms or in relation to the volume or quantity of like products domestically manufactured or consumed;

b) The effects of price depression or suppression of imported goods under investigation on selling prices of like products domestically manufactured;

c) The impacts of dumped or subsidised goods on the status of production and business activities of a domestic industry, including actual and potential decline in revenue, sales, profit, output, market share, capacity, productivity, and investment; factors affecting domestic selling prices; magnitude of dumping margin, and subsidy level; and actual and potential adverse effects on cash flow, inventories, employment, wages, and ability to raise capital;

d) Other factors.

2. The determination of material injury to a domestic industry shall be based on specific evidence.

#### **Article 24. Determination of threat of material injury to a domestic industry**

1. The threat of material injury to a domestic industry shall be determined on the basis of considering the following factors:

a) The increase in the volume or quantity of dumped or subsidised goods which are imported into Viet Nam in absolute terms or in relation to the volume or quantity of like products domestically manufactured or consumed;

b) Whether the capacity of foreign manufacturers or exporters is high enough or likely to significantly increase in the near future, leading to a significant increase in the volume or quantity of imported goods under investigation;

c) Whether the dumped or subsidised goods imported into Viet Nam significantly reduce or depress at a significant level or prevent a significant increase in the selling prices of domestically manufactured like products, leading to the possibility of an increase in the demand for the imported goods;

d) Inventory data of goods under investigation;

dd) Other factors.

2. The overall consideration of the elements referred to in Clause 1 of this Article shows the actual possibility of the increase of the import of dumped or subsidised goods and that material injury will occur if no anti-dumping measures or countervailing measures are applied.

3. The determination of the threat of material injury to a domestic industry shall be based on specific evidence.

### **Article 25. Determination of significant impediment to the formation of a domestic industry**

1. The formation of a domestic industry shall be determined on the basis of considering the following factors:

a) Characteristics of that industry;

b) The operation period of that industry;

c) The size of that industry compared to the entire market;

d) The reasonable financial break-even point of that industry;

dd) Whether that industry is new or an expansion of an existing industry's production line;

e) Other factors deemed appropriate by the investigation authority.

2. Significant impediment to the formation of a domestic industry prescribed in Clause 1 of this Article shall be determined on the basis of considering the following factors:

a) Plan of that industry;

b) Manufacturing capacity and output;

c) Volume or quantity of goods sold in the country;

d) Market share, revenue and profit;

- dd) Selling prices of domestic like products;
- e) Exportation of like products and importation of goods under investigation;
- g) Inventory;
- h) Workforce and wage;
- i) Other factors deemed appropriate by the investigation authority.

3. The determination of significant impediment to the formation of a domestic industry shall be based on specific evidence.

#### **Article 26. Principles of cumulative assessment**

1. In the case goods under investigation are imported from two or more manufacturing or exporting countries, the investigation authority may conduct a cumulative assessment of the injury caused by such goods.

2. The cumulative assessment of the effects of goods under investigation should take into account competition conditions between goods under investigation and competition conditions between goods under investigation and domestically manufactured like products.

3. The cumulative assessment prescribed in Clause 1 of this Article does not include countries with dumping margins and subsidy levels prescribed in Clauses 2 and 3, Article 78, and Clause 2 and 3, Article 86, of the Law on Foreign Trade Management.

#### **Article 27. Determination of the causal relationship between the dumping or subsidisation of goods imported into Viet Nam and injury to a domestic industry**

When determining the causal relationship between the dumping or subsidisation of goods imported into Viet Nam and material injury or threat of material injury to domestic industry or significant impediment to the formation of a domestic industry, the investigation authority shall:

1. Consider whether the dumping or subsidisation causes a material injury or threatens to cause a material injury to that industry or causes a significant impediment to the formation of that industry.

2. Not regard other factors other than the dumping or subsidisation for goods imported into Viet Nam that causes or threatens to cause a material injury to that industry or causes a significant impediment to the formation of that industry as impacts caused by such dumping or subsidisation. These factors include:

a) The volume or quantity of like products imported into Viet Nam which are not dumped or subsidised;

b) The level of decline in consumption demand or change in the form of consumption for domestically manufactured like products;

c) Trade restriction policy;

- d) Technology development;
- dd) Exportability and productivity of the domestic industry;
- e) Other factors deemed appropriate by the investigation authority.

### **Section 3**

#### **ANTI-DUMPING OR COUNTERVAILING INVESTIGATION**

##### **Article 28. Dossiers of request for application of anti-dumping measures**

1. A dossier of request for application of anti-dumping measures must comprise a written request for application of anti-dumping measures and relevant papers and documents.

2. A written request for application of anti-dumping measures must have the following contents:

a) Name, address and other necessary information of the representative of the concerned domestic industry;

b) Information, data and evidence for determining the representation of the concerned domestic industry, including a list of domestic manufacturers of like products, and volume or quantity of the manufactured like products;

c) Names and addresses of manufacturers of like products that support or oppose the case;

d) Information describing imported goods requested for investigation for application of anti-dumping measures, including scientific names, trade names and common names; composition; basic physical and chemical characteristics; manufacturing process; main use purpose; applicable international and Vietnamese standards and regulations; goods headings according to Viet Nam's List of Exports and Imports and applicable import duty rates specified in the export and import tariffs in each period;

dd) Information describing like products of the concerned domestic industry, including scientific names, trade names and common names; basic physical and chemical characteristics; main use purpose; manufacturing process; and international and Vietnamese standards and regulations;

e) Information on the volume or quantity and value of imported goods as prescribed in Point d of this Clause during the period of 12 months before the date of dossier submission;

g) Information on the volume or quantity and value of like products of the domestic industry concerned as prescribed in Point dd of this Clause during the period of 12 months before the date of dossier submission, unless that industry has operated for under 12 months only;

h) Information on normal prices and export prices of goods described under Point d of this Clause; and dumping margins of imported goods requested for investigation for application of anti-dumping measures;

i) Information, data and evidence on the material injury or threat of material injury to or significant impediment to the formation of a domestic industry;

k) Information, data and evidence on the causal relationship between the import of the goods specified in Point d of this Clause and material injury or threat of material injury to or significant impediment to the formation of a domestic industry;

l) Information on the exporting country or origin of the goods requested for investigation for application of anti-dumping measures, including a list of foreign manufacturers or exporters and importers;

m) Specific requirements on the application of anti-dumping measures, time limit and extent of application.

#### **Article 29. Dossier of request for application of countervailing measures**

1. A dossier of request for application of countervailing measures must comprise a written request for application of countervailing measures and relevant papers and documents.

2. A written request for application of countervailing measures must have the following contents:

a) Name, address and other necessary information of the representative of the concerned domestic industry;

b) Information, data and evidence for determining the representation of the concerned domestic industry, including a list of domestic manufacturers of like products, and volume or quantity of the manufactured like products;

c) Names and addresses of manufacturers of like products that support or oppose the case;

d) Information describing imported goods requested for investigation for application of countervailing measures, including scientific names, trade names and common names; composition; basic physical and chemical characteristics; main use purpose; manufacturing process; international and Vietnamese standards and regulations; goods headings according to Viet Nam's List of Exports and Imports and applicable import duty rates specified in the export and import tariffs in each period;

dd) Information describing like products of a domestic industry, including scientific names, trade names and common names; composition; basic physical and chemical characteristics; main use purpose; manufacturing process; and international and Vietnamese standards and regulations;



e) Information on the volume or quantity and value of imported goods as prescribed in Point d of this Clause during the period of 12 months before the date of dossier submission;

g) Information on the volume or quantity and value of like products of the concerned domestic industry as prescribed in Point dd of this Clause during the period of 12 months before the date of dossier submission, unless that industry has only operated for under 12 months;

h) Information and evidence of the foreign subsidy, including the existence of the subsidy; country claimed to provide the subsidy; names and addresses of foreign organisations and individuals claimed to receive the subsidy; form of the subsidy and subsidy policy; and quantity or volume and value of the subsidy;

i) Information, data and evidence on the material injury or threat of material injury to or significant impediment to the formation of a domestic industry;

k) Information, data and evidence on the causal relationship between the import of the goods specified in Point d of this Clause and material injury or threat of material injury to or significant impediment to the formation of a domestic industry;

l) Specific requirements on the application of countervailing measures, time limit and extent of application.

### **Article 30. Receipt of dossiers of request for application of anti-dumping measures and countervailing measures**

1. Within 15 days after receiving a dossier of request for application of anti-dumping or countervailing measures (hereinafter referred to as dossier of request), the investigation authority shall notify the dossier submitter of the completeness and validity of the dossier. If the dossier is incomplete and invalid, the investigation authority shall notify such to the dossier submitter for supplementation.

2. The time limit for supplementation of a dossier of request shall be set by the investigation authority but must not be fewer than 30 days from the date the investigation authority issues a written request for supplementation.

### **Article 31. Appraisal of dossiers of request**

1. The appraisal of a dossier of request and issuance of an investigation decision must comply with Clause 2, Article 70 of the Law on Foreign Trade Management.

2. The appraisal of a dossier of request must cover:

a) Determination of the dossier submitter's eligibility to act as a lawful representative of the concerned domestic industry based on Clause 2, Article 79, and Clause 2, Article 87, of the Law on Foreign Trade Management;

b) Identification of evidence that the dumping or subsidisation for goods imported into Viet Nam causes or threatens to cause a material injury to a domestic industry or causes a significant impediment to the formation of a domestic industry.

**Article 32. Decisions on investigation for application of anti-dumping measures and countervailing measures**

A decision issued by the Minister of Industry and Trade on investigation for application of anti-dumping or counter ailing measures must have the following principal contents:

1. Detailed description of imported goods under investigation, goods headings according to Viet Nam's List of Exports and Imports and their applicable import duty rates specified in the export and import tariffs in each period;
2. Information on domestic manufacturers of like products that request application of anti-dumping or countervailing measures;
3. Brief information about the dumping or subsidisation for goods imported into Viet Nam that causes or threatens to cause a material injury to the concerned domestic industry or causes a significant impediment to the formation of a domestic industry;
4. The order and procedures for the investigation.

**Article 33. Compilation of dossiers of request for application of anti-dumping measures and countervailing measures in the absence of requesting party**

1. In the absence of a requesting party, if there are clear signs that the dumped or subsidised goods imported into Viet Nam cause or threaten to cause a material injury to a domestic industry, the investigation authority shall make a dossier of request for application of anti-dumping or countervailing measures and submit it to the Minister of Industry and Trade for decision on investigation.

2. The dossier made by the investigation authority must have the contents specified in Articles 28 and 29 of this Decree (except those in Points a, b and c, Clause 2).

3. Related organisations and individuals shall coordinate with and provide necessary information at the request of the Ministry of Industry and Trade.

**Article 34. Investigation period**

1. The investigation period for determining dumping or subsidisation is 12 months. In special cases, the investigation authority may set another investigation period which must not be shorter than 6 months.

2. The investigation period for determining injury is at least 3 years and must cover the whole investigation period for determining dumping or subsidisation acts. If a related party has only operated for under 3 years, the to-be-collected data will be

those of the entire operation time of such party up to the time of issuance of the investigation decision.

### **Article 35. Questionnaires for investigation**

1. Within 15 days after the Minister of Industry and Trade issues an investigation decision, the investigation authority shall send questionnaires to related parties, including:

- a) Domestic manufacturers of like products;
- b) Foreign manufacturers or exporters that export goods under anti-dumping or countervailing investigation to Viet Nam, which the investigation authority knows;
- c) Viet Nam-based representatives of the governments of the countries that manufacture or export goods under anti-dumping or countervailing investigation;
- d) Importers of goods under anti-dumping or countervailing investigation;
- dd) Other related parties.

2. Within 30 days after receiving questionnaires, related parties shall fully fill out the questionnaires in writing. When necessary or when related parties make a written request for extension of this time limit for a plausible reason, the investigation authority may extend such time limit for another 30 days at most.

3. A questionnaire shall be considered having reached the recipient after 7 days from the date it is sent by the investigation authority. The sending date shall be determined according to the postmark.

### **Article 36. Selection of samples for investigation**

1. If the number of foreign manufacturers or exporters, importers and domestic manufacturers is too large or there are too many types of goods requested for application of anti-dumping or countervailing measures, the investigation authority may narrow the scope of investigation.

2. The narrowing of the scope of investigation is prescribed below:

a) The narrowing shall be made by selecting appropriate statistical samples based on the volume or quantity of goods under investigation for application of anti-dumping or countervailing measures which are manufactured and exported to Viet Nam by the requested party or based on information available to the investigation authority at the time of sample selection;

b) When selecting samples for investigation, the investigation authority may consult the requested party and importers related to the sample selection and seek the consent of the requested party to this sample selection.

## **Section 4**

# **APPLICATION OF ANTI-DUMPING MEASURES OR COUNTERVAILING MEASURES**

### **Article 37 Imposition of provisional anti-dumping duties and countervailing duties**

1. The imposition of provisional anti-dumping duties or countervailing duties, duty rates, time limit for duty imposition, and extension of the time limit for duty imposition must comply with Clause 1, Article 81, and Clause 1, Article 89, of the Law on Foreign Trade Management.

2. A decision on imposition of provisional anti-dumping duties or countervailing duties must have the following principal contents:

a) Description of imported goods subject to duty imposition, including names, basic characteristics and main use purpose, and goods headings according to Viet Nam's List of Exports and Imports and applicable import duty rates specified in the current export tariff or import tariff;

b) Names, addresses and other necessary information of the manufacturers or exporters of goods subject to duty imposition;

c) Name of the country that manufactures or exports goods subject to duty imposition;

d) Provisional duty rates;

dd) Effect of and time limit for duty imposition;

e) Procedures and dossiers for inspection and duty imposition.

3. Provisional anti-dumping or countervailing duties may be applied no fewer than 60 days after the date the Minister of Industry and Trade decides to launch an investigation.

4. If provisional anti-dumping duties or countervailing duties are applied at a rate lower than the dumping margin or subsidy level stated in the preliminary determination, or if the exporter of goods under investigation into Viet Nam requests extension of the time limit for imposition of provisional anti-dumping duties or countervailing duties and the volume or quantity of such goods accounts for a significant proportion in the total volume or quantity of imported goods under investigation, the Minister of Industry and Trade may extend such time limit for another 60 days at most.

### **Article 38. Application of the measure of commitment in anti-dumping and countervailing investigation cases**

1. After the Minister of Industry and Trade issues a decision on application of provisional anti-dumping or countervailing measures and at least 30 days before the expiration of the investigation stage, the manufacturer or exporter of goods under investigation or the government of the requested party in the case of countervailing investigation (hereinafter referred to as the requesting party) may send its written

commitment to eliminating the dumping or subsidisation (hereinafter referred to as commitment) to the investigation authority.

2. A commitment must have the following principal contents:

- a) Range of goods;
- b) Reference prices, including self-determined prices, price increases, and price adjustment plan;
- c) Periodical notification obligation;
- d) Obligation to cooperate with the investigation authority in realizing the commitment;
- dd) Other contents deemed appropriate by the investigation authority.

3. Within 30 days after receiving a commitment, the investigation authority shall consider and report it to the Minister of Industry and Trade for decision.

4. A commitment shall be considered on the following bases:

- a) Whether its application may remediate the material injury or threat of material injury to the concerned domestic industry or significant impediment to the formation of a domestic industry;
- b) Whether the current management mechanism may effectively supervise the realization of the commitment;
- c) Possibility of circumvention of anti-dumping or countervailing measures through the commitment;
- d) Other factors deemed appropriate by the investigation authority.

5. The investigation authority may only consider the commitment of the requesting party that has fully cooperated in the investigation stage. When considering a commitment, the investigation authority may request adjustment of its contents. Once the requesting party accepts the request for adjustment, it shall send the adjusted commitment to the investigation authority.

6. The investigation authority shall publicly notify the commitment contents to related parties. Related parties may send their written comments within the time limit stated in the notice. If the commitment contains information requested to be kept confidential, the requesting party shall keep such information confidential under Article 11 of this Decree.

#### **Article 39. Decision on commitment to eliminate dumping or subsidisation**

1. Based on the investigation authority's report, the Minister of Industry and Trade shall consider issuing a decision to accept or not to accept the requesting party's commitment. If refusing to accept the commitment, the Minister of Industry and Trade shall state the reason.

2. The decision referred to in Clause 1 of this Article shall be publicly announced to related parties by appropriate methods.

3. After obtaining the decision referred to in Clause 1 of this Article, the investigation authority shall proceed with the investigation and issue a final determination:

a) If the final determination states that no act of dumping or subsidisation is committed or there is no material injury or threat of material injury to a domestic industry or significant impediment to the formation of a domestic industry, the Minister of Industry and Trade shall decide to terminate the case and the realization of the commitment;

b) If the final determination states that an act of dumping or subsidisation is committed or there is a material injury or threat of material injury to a domestic industry or significant impediment to the formation of a domestic industry, the commitment shall continue to be implemented according to its contents.

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

1. When its commitment is accepted, the requesting party shall submit to the investigation authority's supervision of the implementation of the commitment.

2. The investigation authority shall supervise the implementation of a commitment as follows:

a) To request the requesting party to periodically provide information and materials relating to the commitment implementation and prove the accuracy of such information and materials;

b) To periodically compare information provided by the requesting party on the volume or quantity and price of goods imported under the commitment with information provided by the customs office;

c) To conduct on-site investigation of the requesting party when necessary;

d) To check information with importers of the commitment-requesting party;

dd) To conduct supervision in other forms as appropriate.

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

The implementation of a commitment shall be considered being violated in the following cases:

1. The requesting party exports goods under investigation to Viet Nam at a price lower than the committed one;

2. The requesting party fails to periodically provide information on commitment implementation as committed;

3. The requesting party refuses to cooperate with the investigation authority in the verification and on-site investigation of information periodically provided by such party;

4. Information and data on the commitment implementation provided by the requesting party are inaccurate;

5. The requesting party commits an act of circumventing the applied anti-dumping measure or countervailing measure;

6. The requesting party cancels the commitment on its own without notifying such to the investigation authority under Clause 3, Article 42 of this Decree;

7. Other cases as identified by the investigation authority.

#### **Article 42. Cancellation of commitment implementation**

The implementation of a commitment shall be cancelled in the following cases:

1. The requesting party commits a violation prescribed in Article 41 of this Decree;

2. The investigation authority requests cancellation of the commitment;

3. The requesting party requests cancellation of the commitment. It may do so at any time within the validity term of the commitment but must notify such cancellation to the investigation authority at least 30 days before the intended date of cancellation.

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

1. In the case of cancellation of commitment implementation prescribed in Clause 1, Article 42 of this Decree, the Minister of Industry and Trade may decide to apply official anti-dumping or countervailing measures based on available information retrospectively to goods of the requesting party that violates its commitment.

2. In the case of cancellation of commitment implementation prescribed in Clauses 2 and 3, Article 42 of this Decree, the application of anti-dumping or countervailing measures is prescribed below:

a) If the cancellation takes place during the application of provisional anti-dumping or countervailing measures, the Minister of Industry and Trade may decide to cancel the commitment implementation and notify such to the customs office that is applying these provisional measures based on the preliminary determination;

b) If the cancellation takes place during the application of official anti-dumping measures or countervailing measures, the Minister of Industry and Trade may decide to cancel the commitment implementation and notify such to the customs office that is applying these official measures based on the final determination.

#### **Article 44. Application of official anti-dumping measures and countervailing measures**

1. Within 15 days after the investigation authority sends its final determination to the Minister of Industry and Trade, the latter shall issue a decision on the case.

2. A decision on application of official anti-dumping or countervailing measures must have the following principal contents:

a) Description of imported goods subject to anti-dumping or countervailing measures, including scientific names, trade names and common names; composition; basic physical and chemical characteristics; main use purpose; manufacturing process; international and Vietnamese standards and regulations; and goods headings according to Viet Nam's List of Exports and Imports and their applicable import duty rates specified in the export and import tariffs in each period;

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

c) Name of the country that manufactures or exports the goods subject to official anti-dumping or countervailing measures;

d) Investigation conclusion on the necessity to apply official anti-dumping or countervailing measures;

dd) Specific official anti-dumping or countervailing measures;

e) Effect of and time limit for application of official anti-dumping or countervailing measures;

g) Difference in refundable duty amount, if any;

h) Procedures and dossiers for inspection and application of official anti-dumping or countervailing measures.

#### **Article 45. Application of retrospective anti-dumping and countervailing measures**

1. The application of retrospective anti-dumping or countervailing measures must comply with Clause 4, Article 81, and Clause 4, Article 89, of the Law on Foreign Trade Management.

2. Retrospective application of anti-dumping or countervailing measures shall be considered upon receiving the requesting party's request which states that the volume or quantity of the imported goods under investigation sees a sudden increase in the period from the time of issuance of an investigation decision to the time of imposition of provisional anti-dumping or countervailing duties, causing hardly remediable injury to a domestic industry.

3. If official anti-dumping or countervailing duties are higher than the provisional ones, the retrospective duty rates will be the provisional duty rates.

4. If official anti-dumping or countervailing duties are lower than the provisional ones, the retrospective duty rates will be the official duty rates.

### **Chapter III**

## **INVESTIGATION AND APPLICATION OF SAFEGUARD MEASURES**

### **Section 1**



## **INVESTIGATION FOR APPLICATION OF SAFEGUARD MEASURES**

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

1. The Minister of Industry and Trade shall decide to launch an investigation when receiving a dossier of request for application of safeguard measures from a representative of a domestic industry provided that the total volume or quantity of like or directly competitive products of the domestic manufacturers that submit the dossier and domestic manufacturers that support the request accounts for at least 25% of the aggregate volume or quantity of domestically manufactured like or directly competitive products.

2. The Minister of Industry and Trade shall decide to launch an investigation in the case the investigation authority makes a dossier proving the necessity to apply safeguard measures.

### **Article 47 Dossiers of request for application of safeguard measures**

1. A dossier of request for application of safeguard measures (hereinafter referred to as dossier of request) must comprise a written request for application of safeguard measures and relevant papers and documents.

2. A written request for application of safeguard measures must have the following contents:

a) Name, address and other necessary information of the representative of the concerned domestic industry;

b) Information, date and evidence for determining the representation of the concerned domestic industry, including a list of domestic manufacturers of like or directly competitive products, and volume or quantity of the manufactured like or directly competitive products;

c) Names and addresses of manufacturers of like products that support or oppose the case;

d) Information describing imported goods requested for investigation for application of safeguard measures, including scientific names, trade names and common names; composition; basic physical and chemical characteristics; main use purpose; manufacturing process; international and Vietnamese standards and regulations; and goods headings according to Viet Nam's List of Exports and Imports and their applicable import duty rates specified in the export and import tariffs in each period;

dd) Information describing like or directly competitive products of the concerned domestic industry, including scientific names, trade names and common names; basic physical and chemical characteristics; main use purpose; manufacturing process; and international and Vietnamese standards and regulations;

e) Information on the volume or quantity and value of imported goods as prescribed in Point d of this Clause during the period of 3 years before the date of dossier submission;

g) Information on the volume or quantity and value of like or directly competitive products of the concerned domestic industry as prescribed in Point dd of this Clause during the period of 3 years before the date of dossier submission, or for the entire operation duration of the concerned domestic industry up to the time of dossier submission if that industry has only operated for under 3 years;

h) Information, data and evidence on the material injury or threat of material injury to the concerned domestic industry;

i) Information, data and evidence on the causal relationship between the import of the goods specified at Point d of this Clause and material injury or threat of material injury to the concerned domestic industry;

k) Specific requirements on the application of safeguard measures, time limit and extent of application.

#### **Article 48. Dossiers of request for application of safeguard measures in the absence of requesting party**

1. In the absence of requesting party, if there are clear signs that the excessively imported goods cause or threaten to cause material injury to a domestic industry, the investigation authority shall make a dossier of request for application of safeguard measures and send it to the Minister of Industry and Trade for consideration and decision on investigation.

2. The dossier made by the investigation authority must have the contents prescribed in Article 47 of this Decree (except those prescribed in Points a, b and c, Clause 2).

3. Related organisations and individuals shall cooperate with and provide necessary information at the request of the Ministry of Industry and Trade.

#### **Article 49. Appraisal of dossiers**

1. Within 15 days after receiving a dossier of request, the investigation authority shall consider the completeness and validity of the dossier.

2. If seeing that the dossier is incomplete and invalid, the investigation authority shall notify such to the dossier submitter and allow at least 30 days for the latter to supplement the dossier.

3. Within 45 days after the investigation authority issues a notice of receipt of a complete and valid dossier, it shall appraise the dossier and send it to the Minister of Industry and Trade for consideration and decision on investigation. When necessary, the issuance of an investigation decision may be extended for no more than 30 days.

4. The appraisal of a dossier of request must cover:

a) Determination of the dossier submitter's eligibility to act as a lawful representative of the concerned domestic industry based on Clause 1, Article 46 of this Decree;

b) Determination of evidence that the excessively imported goods cause or threaten to cause material injury to the concerned domestic industry.

**Article 50 Decisions on investigation for application of safeguard measures**

A decision issued by the Minister of Industry and Trade on investigation for application of safeguard measures must have the following principal contents:

1. Detailed description of imported goods under investigation, and goods headings according to Viet Nam's List of Exports and Imports and their applicable import duty rates specified in the export and import tariffs in each period;

2. Names of enterprises and representative of domestic manufacturers of like or directly competitive products that request application of safeguard measures;

3. Brief information about the increase in the import of goods under investigation;

4. Material injury or threat of material injury to the concerned domestic industry caused by the increased import.

**Article 51. Determination of material injury or threat of material injury to a domestic industry**

1. When determining the material injury or threat of material injury to a domestic industry, the investigation authority shall consider:

a) The increase in the volume or quantity of imported goods in absolute terms or in relation to the volume or quantity of domestically manufactured like or directly competitive products;

b) The increase in the volume or quantity of imported goods prescribed in Point a of this Clause under the impact of unanticipated changes;

c) The impacts of the prices of imported goods under investigation on the prices of domestically manufactured like or directly competitive products;

d) The impacts of the increased import of goods under investigation on the domestic industry in terms of market share, revenue, output, design capacity, use capacity, profit, employment, inventories and other factors deemed appropriate by the investigation authority.

2. The determination of material injury or threat of material injury to a domestic industry shall be based on specific evidence.

3. The investigation period for determination of material injury or threat of material injury to a domestic industry is 3 years. In the case a domestic industry has only operated for under 3 years, the to-be-collected data will be those of the entire

operation duration of that industry up to the time the Ministry of Industry and Trade decides to launch an investigation.

## **Section 2**

### **APPLICATION OF SAFEGUARD MEASURES**

#### **Article 52. Application of provisional safeguard measures**

1. Based on the preliminary determination, the Minister of Industry and Trade may decide to apply provisional safeguard measures when:

- a) Imported goods under investigation record an excessive increase;
- b) A domestic industry suffers material injury or threat of material injury;
- c) The excessive increase in the import prescribed in Point a of this Clause is the cause of material injury or threat of material injury to a domestic industry;
- d) The late application of safeguard measures will cause material injury or threatens to cause material injury to a domestic industry and such injury will be hardly remediable.

2. Provisional safeguard measures may be applied only in the form of additional import duty.

3. A decision on application of provisional safeguard measures shall be publicly announced with the following contents:

a) Detailed description of imported goods subject to provisional safeguard measures, and goods headings according to Viet Nam's List of Exports and Imports and their applicable import duty rates specified in the export tariff or import tariff in each period;

b) A list of countries exempted from application of provisional safeguard measures;

c) Provisional safeguard duty rates;

d) Time limit for application of provisional safeguard measures;

dd) Information and evidence showing that the increased import of goods under investigation causes or threatens to cause material injury to a domestic industry;

e) Information and evidence showing that the late application of provisional safeguard measures will cause or threatens to cause material injury to a domestic industry and such injury will be hardly remediable;

g) Procedures and dossiers for inspection and application of provisional safeguard measures.

4. When necessary, the Minister of Industry and Trade may decide to terminate the application of provisional safeguard measures ahead of schedule.

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

1. Within 15 days after the investigation authority sends its final determination, the Minister of Industry and Trade shall issue an official decision on the case.

2. A decision of application of official safeguard measures must have the following principal contents:

a) Description of imported goods subject to official safeguard measures, including names, basic characteristics and main use purpose, and goods headings according to Viet Nam's List of Exports and Imports and their applicable import duty rates specified in the export and import tariffs in each period;

b) Official safeguard measures;

c) Effect and time limit for application of safeguard measures; d) Refund of the difference (if any) in safeguard duty;

dd) Procedures and dossiers for inspection and application of provisional safeguard measures;

e) Investigation conclusion on the necessity to apply official safeguard measures.

#### **Article 54. Provisions on application of import quota and tariff quota measures**

In the case where the Minister of Industry and Trade decides to apply official safeguard measures through import quota or tariff quota:

1. The volume or quantity of import quota or tariff quota must not be lower than the average volume or quantity of imported goods in the last 3 years with available import data, unless the investigation authority can maintain with explicit evidence that a lower volume or quantity quota is necessary for preventing or remediating material injury or threat of material injury.

2. The Ministry of Industry and Trade shall allocate quotas among the countries exporting goods to Viet Nam based on their market shares calculated on the total volume or quantity of goods in the last 3 years with available import data, taking into account special factors that affect trade in goods activities.

3. The Ministry of Industry and Trade shall consult the countries that have a major volume or quantity of goods imported into Viet Nam and are allocated quotas.

4. In the case the import quota measure is to be applied for over 1 year, the Ministry of Industry and Trade shall loosen the import quota or tariff quota measure applied for subsequent years.

5. Customs offices shall coordinate with the Ministry of Industry and Trade in controlling and managing the application of import quota and tariff quota measures.

## **Chapter IV**

### **REVIEW OF THE APPLICATION OF TRADE REMEDIES**

**Section 1**  
**GENERAL PROVISIONS**

**Article 55. Dossiers of request for review of the application of trade remedies**

A dossier of request for review of the application of a trade remedy (hereinafter referred to as dossier for review) must comprise:

1. A written request for review of the application of a trade remedy, made according to the form issued by the investigation authority;
2. Other documents and information deemed necessary by the requesting party.

**Article 56. Appraisal of dossiers for review**

1. Within 15 days after receiving a dossier for review, the investigation authority shall notify the dossier submitter of the completeness and validity of the dossier. If the dossier is incomplete or invalid, the investigation authority shall request the dossier submitter to supplement the dossier.

2. Within 30 days after receiving a complete and valid dossier for review, the investigation authority shall appraise the dossier and propose to the Minister of Industry and Trade to consider and decide on the review of the application of a trade remedy.

**Article 57. Questionnaires for review**

1. Within 15 days after the issuance of a decision on review, the investigation authority shall send a questionnaire for review to:

- a) The review-requesting party;
- b) The party of which the review is requested;
- c) Other related parties deemed necessary by the investigation authority.

2. Within 30 days after receiving the questionnaires for review, the related parties shall return the fully filled out questionnaires to the investigation authority. This time limit may be extended once by the investigation authority for another 30 days at most based on the written request for extension of the related party.

3. The questionnaires shall be considered having reached the recipients after 7 working days from the date they are sent by the investigation authority. The sending date shall be determined according to the postmark.

**Section 2**  
**REVIEW OF ANTI-DUMPING OR COUNTERVAILING MEASURES**

**Sub-section 1**

## **REVIEW OF ANTI-DUMPING OR COUNTERVAILING MEASURES AT THE REQUEST OF RELATED PARTIES**

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

1. Within 60 days before the end of 1 year from the date of issuance of the decision on the application of official anti-dumping or countervailing measures or of the latest decision on the results of the review of anti-dumping or countervailing measures, the related parties prescribed in Article 59 of this Decree may submit a dossier of request for review, except cases in which the time limit for dossier submission is less than 9 months before the deadline for the Minister of Industry and Trade to decide whether to carry out the sunset review of anti-dumping or countervailing measures.

2. The contents of a dossier for review must comply with the form issued by the investigation authority.

### **Article 59. Review-requesting party**

The following organisations and individuals may submit dossiers of request for review of the application of anti-dumping or countervailing measures under Article 58 of this Decree:

1. Domestic manufacturers prescribed in Clause 2, Article 79, and Clause 2, Article 87, of the Law on Foreign Trade Management.

2. Foreign manufacturers or exporters that may submit dossiers of request for review of the application of anti-dumping or countervailing measures to such foreign manufacturers and exporters;

3. Importers of goods subject to anti-dumping or countervailing measures;

4. Governments of foreign manufacturers or exporters which may submit dossiers for review of the application of anti-dumping or countervailing measures to such foreign manufacturers or exporters;

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

The investigation authority shall review one or more of the following contents, based on the contents requested by the related party:

1. Dumping margin, level of subsidy of one, some or all of the foreign manufacturers and/or exporters;

2. Commitments to eliminate dumping or subsidy made by one, some or all of the foreign manufacturers and/or exporters;

3. Injury to a domestic industry and the causal relationship between the dumping or subsidy of relevant foreign manufacturers and/or exporters and such injury;

4. Scope of application of anti-dumping or countervailing measures.

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

1. Within 15 days from the date the investigation authority submits the review conclusion, the Minister of Industry and Trade shall issue a decision on the result of the review of the application of the trade remedy.

2. Based on the review conclusion of the investigation authority, the Minister of Industry and Trade shall issue one of the following decisions on:

a) Adjustment or non-adjustment of the application of anti-dumping or countervailing measures based on the review result under Article 60 of this Decree;

b) Termination of the application of anti-dumping or countervailing measures in the case the review conclusion determines that the anti-dumping or countervailing measures are no longer necessary to remediate the injury to a domestic industry or the domestic industry will no longer suffer injury if anti-dumping or countervailing measures are terminated.

3. The adjustment of the application of anti-dumping or countervailing measures specified at Point a, Clause 2 of this Article will not affect the time limit for the application of anti-dumping or countervailing measures currently in force.

**Sub-section 2**

**SUNSET REVIEW OF THE APPLICATION OF ANTI-DUMPING OR  
COUNTERVAILING MEASURES**

**Article 62. Submission of dossiers of request for sunset review**

1. At least 12 months before the date the decision on application of anti-dumping or countervailing measures ceases to be effective, the investigation authority shall announce its receipt of the dossier of request for sunset review of the application of anti-dumping or countervailing measures.

2. Within 30 days after the investigation authority makes the above announcement, the domestic manufacturer representing a domestic industry as prescribed in Clause 2, Article 79, or Clause 2, Article 87, of the Law on Foreign Trade Management may submit a dossier of request for sunset review of the application of anti-dumping or countervailing measures.

**Article 63. Contents of the sunset review of the application of anti-dumping or countervailing measures**

1. The investigation authority shall carry out sunset review to assess the possibility of continuation or recurrence of dumping or subsidising acts causing injury to a domestic industry in the case of termination of anti-dumping or countervailing measures.



2. The sunset review of the application of anti-dumping or countervailing measures must include the following contents:

- a) The possibility of imported goods being dumped or subsidised if anti-dumping or countervailing measures are terminated;
- b) The possibility that a domestic industry suffers material injury or threat of material injury if anti-dumping or countervailing measures are terminated;
- c) The causal relationship between the possibility of dumping or subsidisation and the injury that a domestic industry may suffer.

**Article 64. Decision on the result of the sunset review of the application of anti-dumping or countervailing measures**

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

1. Extension of the application of anti-dumping or countervailing measures if the final determination determines that the elimination of anti-dumping or countervailing measures may result in the continuation or recurrence of goods dumping or subsidising acts which cause injury to a domestic industry.

2. Termination of the application of anti-dumping or countervailing measures in the case the requesting domestic manufacturers withdraw their requests for review or the final determination of the investigation authority determines that there is no possibility of continuation or recurrence of goods dumping or subsidising acts that cause injury to a domestic industry.

**Sub-section 3**

**REVIEW OF NEW EXPORTERS**

**Article 65. Identification of new exporters**

1. New exporter means a manufacturer or an exporter of the exporting country which is subject to anti-dumping or countervailing measures and did not export goods under investigation into Viet Nam during the initial investigation period.

2. A new exporter may submit a dossier of request for review of the application of anti-dumping or countervailing measures when fully meeting the following conditions:

- a) He/she/it has no relationship with the manufacturers and/or exporters subject to anti-dumping or countervailing measures under Article 5 of this Decree;
- b) He/she/it has actually exported the goods to Viet Nam after the investigation period determined by the investigation authority in the initial investigation case;

c) The volume or quantity of exports to Viet Nam by the time of dossier submission is large enough for the investigation authority to determine the reasonable export price.

3. New exporters may submit a dossier of request for review after the decision on application of anti-dumping or countervailing measures takes effect.

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

The review of a new exporter must include the following contents:

1. Separate dumping margin or level of subsidy of the new exporter;
2. Conditions for application of anti-dumping or countervailing measures to the new exporter.

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

Based on the investigation authority's conclusion of the review of new exporters, the Minister of Industry and Trade shall issue one of the following decisions on:

1. Application of separate anti-dumping or countervailing measures to new exporters;
2. Continuation of the application of the anti-dumping or countervailing measures currently in force in the case the new exporter withdraws the dossier of request for review or does not cooperate in the review process.

### **Section 3**

## **REVIEW OF SAFEGUARD MEASURES**

#### **Article 68. Interim review of the application of safeguard measures**

1. If the duration of application of safeguard measures, including the duration of application of provisional safeguard measures, lasts more than 3 years, the Minister of Industry and Trade shall carry out an interim review of the application of safeguard measures.

2. Based on the investigation authority's interim review conclusion, the Minister of Industry and Trade shall issue one of the following decisions on:

- a) Continuation of the application of safeguard measures;
- b) Reduction of the application of safeguard measures;
- c) Termination of the application of safeguard measures.

#### **Article 69. Sunset review of the application of safeguard measures**

1. At least 9 months before the date the decision on the application of safeguard measures ceases to be effective, the investigation authority shall announce its receipt of dossiers of request for sunset review of application of safeguard measures. Within 30 days from the date the investigation authority makes the above announcement,

organisations and individuals may submit a dossier of request for sunset review of the application of safeguard measures.

2. The sunset review of the application of safeguard measures must include the following contents:

a) Determination of the level of increase of imports into Viet Nam since the safeguard measure was applied;

b) Assessment of production and business activities of a domestic industry since the safeguard measure was applied;

c) Adjustments of the domestic industry since the safeguard measure was applied;

d) The possibility of material injury or threat of material injury to a domestic industry if the safeguard measure is terminated.

3. The decision on the result of the sunset review of the application of safeguard measures must include the following contents:

a) Extension or non-extension of the application of safeguard measures;

b) Adjustment of the level of application of safeguard measures;

c) Adjustment of the scope of application of safeguard measures.

## **Section 4**

### **REVIEW OF THE RANGE OF GOODS**

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

1. The following organisations and individuals may submit a dossier of request for review:

a) Domestic manufacturers;

b) Foreign manufacturers and exporters;

c) Importers;

d) Organisations and individuals using the imports.

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

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

The review of the range of goods subject to trade remedies must include the following contents:

1. Comparison of imports and like or directly competitive products manufactured domestically;

2. Substitutability of imported goods;

3. A domestic industry's capacity to manufacture like or directly competitive products.

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

Based on the investigation body's review conclusion, the Minister of Industry and Trade shall issue one of the following decisions on:

1. Non-adjustment of the range of goods subject to trade remedies.
2. Narrowing of the range of goods subject to trade remedies.
3. Exclusion from trade remedies for specific importers.

**Chapter V**

**ANTI-CIRCUMVENTION OF TRADE REMEDIES**

**Section 1**

**ACTS AIMING TO CIRCUMVENT TRADE REMEDIES**

**Article 73. Expansion of the scope of application of trade remedies**

The scope of application of trade remedies may be expanded for goods circumventing trade remedies as follows:

1. Raw materials, materials, components or supplies originating from the country subject to trade remedies and imported into Viet Nam for the manufacture of goods subject to trade remedies.
2. Goods similar to those being subject to trade remedies which originate from a third country and use raw materials, materials, components or supplies originating from the country subject to trade remedies.
3. Imports originating from the country subject to trade remedies which are negligibly different from those currently subject to trade remedies.
4. Goods subject to trade remedies transferred through a third country.
5. Goods subject to trade remedies which change their business form and distribution channels to benefit from levels of trade remedies lower than those being applied.

**Article 74. Acts aiming to circumvent trade remedies through manufacture or assembly in Viet Nam**

The goods described in Clause 1, Article 73 of this Decree shall be considered as circumventing trade remedies through manufacture or assembly in Viet Nam if the following conditions are fully met:

1. Goods similar to those subject to trade remedies are manufactured or assembled in Viet Nam from raw materials, materials, components or supplies

imported from the country subject to trade remedies and are sold at price lower than the normal price of the goods subject to trade remedies;

2. Raw materials, materials, components or supplies originating from the country subject to trade remedies are imported into Viet Nam mainly for the purpose of manufacturing goods subject to trade remedies;

3. Manufacture and assembly activities have significantly increased in Viet Nam before or since the date of issuance of the investigation decision by the Minister of Industry and Trade.

4. Raw materials, materials, components or supplies originating from the country subject to trade remedies account for at least 60% of the total value of raw materials, materials, components or supplies used for the manufacture or assembly of goods subject to trade remedies in Viet Nam.

#### **Article 75. Added value**

In the case the added value of goods manufactured or assembled under Article 74 of this Decree exceeds 25% of the total production cost of goods subject to trade remedies, the import of raw materials, materials, components or supplies will not be considered as circumventing trade remedies. In the case of necessity, the investigation authority may consider another ratio of added value in the total production cost suitable to the characteristics of such industry.

#### **Article 76. Acts aiming to circumvent trade remedies through manufacture or assembly in a third country**

The goods described in Clause 2, Article 73 of this Decree shall be considered as circumventing trade remedies if the following conditions are fully met:

1. The price of the goods exported from a third country to Viet Nam is lower than the normal price of the goods initially investigated for application of trade remedies;

2. The volume or quantity of goods imported into Viet Nam accounts for a large proportion to total sales of the manufacturer or exporter;

3. The volume or quantity of goods imported into Viet Nam has begun and significantly increased before or since the date of issuance of the investigation decision by the Minister of Industry and Trade;

4. Raw materials, materials, components or supplies originating from the country subject to trade remedies account for at least 60% of the total value of raw materials, materials, components or supplies of the goods subject to trade remedies exported to Viet Nam.

#### **Article 77. Acts aiming to circumvent trade remedies through negligible changes in goods subject to trade remedies**

The goods described in Clause 3, Article 73 of this Decree shall be considered as circumventing trade remedies if the following conditions are fully met:

1. Their import volume or quantity has significantly increased compared to the volume or quantity of goods subject to trade remedies imported into Viet Nam by the manufacturer or exporter.

2. Their import volume or quantity has significantly increased before or since the date of issuance of the investigation decision by the Minister of Industry and Trade.

#### **Article 78. Determination of negligible differences**

The negligible difference referred to in Clause 3, Article 73 of this Decree is determined when there is virtually no difference between imported goods and goods subject to trade remedies in terms of characteristics, use purpose, distribution channel and cost.

### **Section 2**

## **INVESTIGATION AND APPLICATION OF MEASURES FOR ANTI-CIRCUMVENTION OF TRADE REMEDIES**

#### **Article 79. Dossiers of request for application of measures for anti-circumvention of trade remedies**

1. A dossier of request for application of measures for anti-circumvention of trade remedies must comprise a written request for application of measures for anti-circumvention of trade remedies and relevant information and documents.

2. A written request for application of measures for anti-circumvention of trade remedies must have the following contents:

- a) Name, address of and other necessary information about the requesting party;
- b) Description of the imports requested to be subject to measures for anti-circumvention of trade remedies, including their scientific names, trade names and/or common names; ingredients; basic physical and chemical characteristics; main purpose; manufacturing process; international and Vietnamese standards and/or regulations; goods headings on Viet Nam's List of Exports and Imports and currently effective import duty rates according to the export and import tariffs in each period;
- c) Description of the volume or quantity of the imports as prescribed in Article 73 of this Decree;
- d) Description of the volume or quantity of like products manufactured domestically;
- dd) Information on the export prices of the goods described at Point b of this Clause at the time of import into Viet Nam for at least 12 months before the requesting

party submits the dossier or before the investigation authority compiles a dossier under the decision of the Minister of Industry and Trade;

e) Information, data and evidence of acts aiming to circumvent trade remedies claimed by the requesting party;

g) Name, address and other necessary information of all requested parties;

h) Specific requirements on the application of measures for anti-circumvention of trade remedies, and time limit and extent of application.

### **Article 80. Compilation of dossiers of request for application of measures for anti-circumvention of trade remedies in the absence of requesting party**

In the absence of a requesting party, if there are signs of circumventing trade remedies, the investigation authority shall compile a dossier of request for application of measures for anti-circumvention of trade remedies and submit it to the Minister of Industry and Trade for considering and deciding on investigation.

### **Article 81. Order and procedures for and contents of investigation**

1. Within 15 days after receiving a dossier of request, the investigation authority shall check its completeness and validity.

2. If the dossier is incomplete or invalid, the investigation authority shall notify such to the dossier submitter and allow at least 30 days for the latter to supplement the dossier.

3. Within 45 days after receiving a complete and valid dossier, the Minister of Industry and Trade shall consider and decide on the investigation based on the result of the investigation authority's appraisal of the dossier.

4. The investigation for anti-circumvention of trade remedies must include the following contents:

a) Identification of acts aiming to circumvent trade remedies;

b) Change in trade flow from the originating or exporting country after the effective date of the decision on application of trade remedies, which is the cause of such circumvention;

c) Injury to a domestic industry or the reduced effectiveness of the trade remedies currently in force.

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

1. The time limit for investigation for application of measures for anti-circumvention of trade remedies is 6 months from the date of issuance of the investigation decision.

2. In special cases, the Minister of Industry and Trade may extend the investigation for another 6 months at most.

### **Article 83. Application of measures for anti-circumvention of trade remedies**

1. Within 15 days after the investigation authority submits the final determination, the Minister of Industry and Trade shall issue a decision whether to apply or not apply measures for anti-circumvention of trade remedies.

2. If the Minister of Industry and Trade decides to apply measures for anti-circumvention of trade remedies, the trade remedies currently in force will be extended to each manufacturer or exporter of the goods described in Article 73 of this Decree that has been confirmed to have taken acts to circumvent trade remedies.

3. The time limit for the application of measures for anti-circumvention of trade remedies ends when the time limit for the application of the initial trade remedy expires.

## **Chapter VI**

### **HANDLING OF TRADE REMEDIES APPLIED TO VIETNAMESE EXPORTS**

#### **Article 84. Handling principles**

1. Assistance activities for Vietnamese traders that are investigated by importing countries for application of or applied with trade remedies prescribed in Article 76 of the Law on Foreign Trade Management shall be carried out on the basis of the written requests of these traders and trade associations.

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

3. The Ministry of Finance shall ensure the particular budget for trader assistance activities prescribed in Article 76 of the Law on Foreign Trade Management.

4. Assistance activities must ensure the lawful rights and interests of Vietnamese traders and conform with the provisions of Vietnamese law and treaties to which the Socialist Republic of Viet Nam is a contracting party.

#### **Article 85. Provision of information relating to cases**

The information to be provided to traders prescribed in Point a, Clause 1, Article 76 of the Law on Foreign Trade Management is the information disclosed by relevant authorities of the importing country or permitted to be disclosed in accordance with treaties to which the Socialist Republic of Viet Nam is a contracting party.

#### **Article 86. Early warning system for foreign trade remedy lawsuits**



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

2. The Ministry of Industry and Trade shall prescribe the organisation and operation of the early warning system.

**Article 87. Exchange with importing countries that are investigating for application of trade remedies or applying trade remedies to Vietnamese exports**

Exchange with the importing country that is investigating for application of trade remedies or applying trade remedies prescribed in Point b, Clause 1, Article 76 of the Law on Foreign Trade Management shall be carried out in appropriate forms under the charge of the Ministry of Industry and Trade and in accordance with Vietnamese law and treaties to which the Socialist Republic of Viet Nam is a contracting party.

**Article 88. Assistance for Vietnamese traders that are investigated by importing countries for application of countervailing measures**

If Vietnamese traders are investigated by an importing country for application of countervailing measures as prescribed in Clause 2, Article 76 of the Law on Foreign Trade Management, the Ministry of Industry and Trade shall assume the prime responsibility for planning to cooperate with relevant authorities of the importing country as follows:

1. Holding consultation with the foreign investigation authority on accused subsidy programs of Viet Nam.

2. Providing the Government with information and documents related to the accused subsidy programs of Viet Nam at the request of the foreign investigation authority in accordance with current regulations.

3. Working with the foreign investigation authority in the course of on-site investigation of the accused subsidy programs of Viet Nam.

4. Other appropriate activities.

**Article 89. Preparation of plans for compensation claim and retaliation in the case Vietnamese traders are investigated by importing countries for application of trade remedies**

1. The Ministry of Industry and Trade shall assume the prime responsibility for, and coordinate with related ministries, ministerial-level agencies and organisations and individuals in, preparing plans for compensation claim under treaties to which the Socialist Republic of Viet Nam is a contracting party, and submit them to the Prime Minister for approval.

2. The Ministry of Industry and Trade shall assume the prime responsibility for holding consultation with related authorities of the importing country on the approved

plan for compensation claim referred to in Clause 1 of this Article and issue a decision on specific implementation of the plan.

3. If the Governments of Viet Nam and the importing country cannot reach an agreement on compensation, the Ministry of Industry and Trade shall assume the prime responsibility for, and coordinate with related ministries, ministerial-level agencies, organisations and individuals in, preparing a retaliation plan in accordance with treaties to which the Socialist Republic of Viet Nam is a contracting party and report it to the Prime Minister for approval and issue a decision on implementation of the approved retaliation plan.

4. The procedures for carrying out the compensation claim and retaliation must comply with Viet Nam's law and relevant treaties to which the Socialist Republic of Viet Nam is a contracting party.

**Article 90. Initiation of lawsuits against importing countries when detecting their violations of treaties to which the Socialist Republic of Viet Nam is a contracting party**

1. The Ministry of Industry and Trade shall assume the prime responsibility for, and coordinate with other ministries, ministerial-level agencies and competent state management agencies in, considering initiating lawsuits in accordance with Point c, Clause 1, Article 76 of the Law on Foreign Trade Management on the basis of collected information or at the written request of the related traders or trade associations, report lawsuit plans to the Prime Minister and implement these plans after they are approved by the Prime Minister.

2. In the case the related trader or trade association submits a written request for initiation of a lawsuit, the written request must have the following contents:

- a) Description of trade remedies applied by the foreign country;
- b) Injury caused by the investigation for application or by the application of trade remedies specified in Point a of this Clause;
- c) Description of violations of treaties to which the Socialist Republic of Viet Nam is a contracting party;
- d) Proposals of the trader or trade association;
- dd) Other relevant information and documents deemed necessary by the trader or trade association.

3. The procedures for initiating a lawsuit against the importing country that is conducting investigation for application of or applying trade remedies must comply with treaties to which the Socialist Republic of Viet Nam is a contracting party.

4. Information and documents in the process of review and evaluation before initiating a lawsuit and in the process of lawsuit or information requested by related

parties to be kept confidential shall be regarded as confidential information in accordance with current laws.

5. Traders and trade associations which have sent a written request as specified in Clause 2 of this Article shall fully coordinate with the Ministry of Industry and Trade in the process of suing the importing country that is conducting investigation for application of, or applying trade remedies.

**Article 91. Participation in the capacity as related party in trade remedy cases and as third party in the cases of settlement of disputes over trade remedies at the World Trade Organisation**

1. The Ministry of Industry and Trade shall consider and register the participation in the capacity as related party when a foreign country investigates for application of or applies trade remedies to Vietnamese exports.

2. The Ministry of Industry and Trade shall consider and register the participation in the capacity as third party in a dispute settlement case at the World Trade Organisation if the case is related to the rights and interests of Viet Nam in the field of trade remedy. The Ministry of Industry and Trade may consult, when necessary, related ministries and sectors on such registration.

3. The Ministry of Industry and Trade may consider providing information and documents during the participation in the capacity as third party as specified in Clause 2 of this Article on the basis of written requests of organisations or individuals, provided that such documents and information are permitted to be disclosed in accordance with treaties to which the Socialist Republic of Viet Nam is a contracting party.

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

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

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

3. The Ministry of Finance shall ensure the particular budget for use of legal consultancy services in trader assistance activities prescribed Article 76 of the Law on Foreign Trade Management.

**Article 93. Coordination mechanism between management agencies, trade associations and traders**

1. The coordination mechanism between management agencies, trade associations and traders shall be based on the following principles:

a) The Ministry of Industry and Trade shall assume the prime responsibility for and other ministries, ministerial-level agencies, provincial-level People's Committees, other state management agencies and related organisations and individuals shall timely coordinate with the Ministry of Industry and Trade in trader assistance activities prescribed in Article 76 of the Law on Foreign Trade Management;

b) Ministries, ministerial-level agencies, provincial-level People's Committees, other competent state management and related organisations and individuals shall be responsible for the information, documents and evaluation opinions provided to the Ministry of Industry and Trade during the handling of trade remedies applied to Vietnamese exports.

2. The coordination shall be carried out as follows:

a) Ministries, ministerial-level agencies, provincial-level People's Committees and other competent state management agencies shall, within the ambit of their respective powers and functions, provide information, documents and evaluation opinions at the request of the Ministry of Industry and Trade, and explain relevant contents when the foreign investigation authority conducts on-site investigation according to the coordination by the Ministry of Industry and Trade;

b) Trade associations shall coordinate with the Ministry of Industry and Trade in monitoring information on export markets in order to assess the risks of foreign countries' investigation and application of trade remedies to Vietnamese exports, report information relating to foreign countries' investigation and application of trade remedies to their members, consider participation in the capacity as related party in the cases, and carry out other activities at the request of the Ministry of Industry and Trade;

c) The Viet Nam Chamber of Commerce and Industry shall, within the ambit of its functions and powers, coordinate with the Ministry of Industry and Trade in guiding and assisting traders that are investigated or applied trade remedies by foreign countries, and carry out other assistance activities at the request of the Ministry of Industry and Trade;

d) Overseas Vietnamese representative missions shall collect and monitor the information and notices of related authorities of the importing countries on their trade remedies and promptly report them to the Ministry of Industry and Trade, and assist in the inquiry about legal consultancy services at the request of the Ministry of Industry and Trade;

dd) The Ministry of Finance shall coordinate with the Ministry of Industry and Trade in carrying out trader assistance activities in accordance with the provisions of this Chapter, and request customs offices to promptly provide import and export data at the request of related agencies of the Ministry of Industry and Trade;

e) The Ministry of Foreign Affairs shall coordinate with the Ministry of Industry and Trade in carrying out trader assistance activities in accordance with the provisions of this Chapter and direct the overseas Vietnamese representative missions to take the initiative in working with related authorities of the importing countries to study, monitor and synthesise information on the cases, and promptly report them to the Ministry of Industry and Trade and coordinate with the latter in preparing handling plans;

g) The Ministry of Justice shall coordinate with the Ministry of Industry and Trade in carrying out trader assistance activities in accordance with the provisions of this Chapter and coordinate in studying and evaluating regulations on trade remedies of the World Trade Organisation and other countries;

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

## **Chapter VII**

### **IMPLEMENTATION PROVISIONS**

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

1. This Decree takes effect on 15 January 2018.

2. The following Decrees of the Government cease to be effective on the date this Decree takes effect:

a) Decree No. 150/2003/ND-CP dated 8 December 2003 detailing the Ordinance on Safeguards in the Import of Foreign Goods into Viet Nam;

b) Decree No. 89/2005/ND-CP dated 11 July 2005 detailing a number of articles of the Ordinance on Countervailing Measures for Goods Imported into Viet Nam;

c) Decree No. 90/2005/ND-CP dated 11 July 2005 detailing a number of articles of the Ordinance on Anti-dumping for Goods Imported into Viet Nam;

d) Decree No. 04/2006/ND-CP dated 9 January 2006 on the establishment, functions, duties, powers and organisational structure of the Council for handling of anti-dumping, countervailing and safeguard cases.

#### **Article 95. Implementation responsibility**

1. The Minister of Industry and Trade shall organise the implementation of this Decree.

2. The Ministry of Finance shall guide the procedures for collection and remittance into the state budget of the revenues from trade remedies applied to goods imported into Viet Nam, and the procedures for refund of trade remedy duty.

3. Ministers, heads of ministerial-level agencies, heads of government-attached agencies and chairpersons of provincial-level People's Committees shall implement this Decree.

**Article 96. Transitional provision**

From the effective date of this Decree, trade remedy cases of which competent state agencies receive complaint or investigation dossiers before that date will continue to be considered and settled according to Decree No. 150/2003/ND-CP dated 8 December 2003 detailing the Ordinance on Safeguards in the Import of Foreign Goods into Viet Nam, Decree No. 89/2005/ND-CP dated 11 July 2005 detailing a number of articles of the Ordinance on Countervailing Measures for Goods Imported into Viet Nam, or Decree No. 90/2005/ND-CP dated 11 July 2005 detailing a number of articles of the Ordinance on Anti-dumping for Goods Imported into Viet Nam./.

**ON BEHALF OF THE GOVERNMENT  
PRIME MINISTER**

**Nguyen Xuan Phuc**