

REPUBLIC OF LITHUANIA

Law on the Safeguard Measures No XX of X (day) X(month) 1999

Chapter I General Provisions

Article 1. The purpose of this law

The purpose of this law is to provide legal conditions for safeguarding Lithuanian producers from the import of products into the customs territory of the Republic of Lithuania, which impair their position.

Article 2. The main definitions used in this law:

1. Imports causing injury means the situation where a product is imported in such greatly increased quantities (either in absolute terms or relative to production or consumption of the like product in Lithuania) and on such terms and conditions as to cause, or threaten to cause, serious injury to the domestic producers of the like products.

2. Like product means a product which is identical to in all respects or has characteristics closely resembling those of the imported product under consideration or is directly competing on the Lithuanian market.

3. Domestic producers means the producers as a whole of the like or directly competing products or those whose collective output of the like product constitutes more than 50 percent of the total production of those products in the customs territory of the Republic of Lithuania.

4. Serious injury means a significant overall impairment in the position of domestic producers, resulting in the reduction of the volume of production of the like product, its return on capital, sales in the domestic market, the price of such product, labour efficiency, utilization of capacity, negative impact on the stock, employment, etc.

5. A threat of serious injury means serious injury that is ascertained by evidences, clearly imminent to domestic producers.

6. Customs territory of the Republic of Lithuania means the territory of the Republic of Lithuania, bordered by the customs boundaries of the Republic of Lithuania, unless the international agreements of the Republic of Lithuania provide otherwise.

7. Customs boundaries of the Republic of Lithuania means the border of the customs territory of the Republic of Lithuania, coinciding with the state border of the Republic of Lithuania, unless the international agreements of the Republic of Lithuania provide otherwise.

8. **Safeguard measures** means the measures restricting the import of products concerned into the customs territory of the Republic of Lithuania, applied by the Republic of Lithuania, by setting safeguard import quota of the product under consideration or a safeguard duty.

9. **Safeguard import quota** means the restriction of import of the product under consideration, expressed in the annual amount (expressed in kind or in value) of such product permitted to be imported. Such restriction may be applied only if upon the completion of investigation it is established that an adverse import is being carried out into the customs territory of the Republic of Lithuania.

10. **Safeguard duty** means the duty which may be imposed as a provisional measure during the investigation, when preliminary determination is made that imports are causing injury and as a final measure, when it is determined that imports are causing injury .

11. **Interested parties** for the purpose of the procedures for the determination and application of safeguard measures means:

- 1) the Lithuanian producers of the like or directly competitive products or trade or business associations, a majority of the members of which are the producers of the like or directly competitive products;
- 2) producers, exporters or importers of the product in question, or business associations, a majority of the members of which are foreign producers, exporters or importer of the product concerned;
- 3) the governments of the countries exporting the imports in question;
- 4) Lithuanian consumers, which use the imports in question for the production of their products as well as non-industrial Lithuanian consumer associations;

Article 3. Public authorities in charge of the implementation of this law

1. The administration officials authorised by the Competition Council (hereinafter referred to as authorised officials) shall carry out investigation for the determination of imports causing injury and injury itself, make determinations as to the initiation of investigation, application of safeguard measures, (as appropriate) the initiation of repeat investigation, extension or abolishment of application of safeguard measures, termination of investigation, carry out the reviews of the application of safeguard measures and submit to the Competition Council their findings, publish decisions adopted by the Competition Council in the Official Gazette and provide information to the interested parties.
2. The Competition Council shall adopt decisions on the initiation of the investigation, (as appropriate) the extension of the duration of investigation, its termination; on the application of safeguard measures; on the repeat initiation of investigation, extension of the application of safeguard measures; on the speedier liberalisation of the applied measure or termination of the applied measure.

CHAPTER 2 INVESTIGATION

Article 4. Purpose of investigation

The purpose of investigation is to determine, on the basis of the objective evidence, whether imports of the product in question into the customs territory of the Republic of Lithuania are causing or threatening to cause serious injury to domestic producers.

Article 5 Initiation of investigation

1. The investigation to determine imports causing injury shall be initiated provided the Competition Council has received a written application

1) examine whether the application has

will be utilised for the production of the products in question, which will be exported to the customs territory of the Republic of Lithuania.

3. During the investigation all factors of objective and quantifiable nature having a bearing on the situation of domestic producers must be evaluated. When factors other than increased imports are causing injury to the domestic producers at the same time, such injury shall not be attributed to increased imports.
4. During the investigation the necessary information shall be obtained in the following manner:
 - 1) replies by interested parties to questionnaires submitted by the Competition Council . Replies to questionnaires shall be submitted within 30 days (calculated from the date of the receipt thereof);
 - 2) additional evidence submitted in writing by interested parties on their own initiative;
 - 3) data and documents submitted at the request of the Competition Council by Lithuanian economic entities, central and local authorities, statistics agencies.
5. During the investigation, interested parties must be provided with the opportunity to submit evidence and express their views on the information in questions on the information submitted by other parties to the investigation.
6. The Competition Council may hear the interested parties, provided they made a written application to the Competition Council within the time limit laid down in paragraph 2 of Article 20. This application must show that the interested party which has submitted the application is actually likely to be affected by the outcome of investigation and that there are special reasons for it to be heard orally.
7. The interested parties which have submitted a written request shall be provided with the opportunity to see all non-confidential information (within the meaning of Article 21 of this law), relevant to the investigation, on which investigation is based.
8. In the course of investigation normally information covering one year is examined. Any other period may be selected of at least six months prior to the initiation of investigation.
9. The investigation shall be based only on written information.
10. If the interested party refuses to provide necessary information, or provides it after the expiry of all time limits or it is established that the interested party has provided false information, false information shall be disregarded and findings shall be based on other reliable information received by the Competition Council from other independent sources. The interested parties shall be informed in writing that in the case of failure to submit information, delayed submission of information or submission of false information that the findings of the investigation might be less favourable than if they would have cooperated.

Article 9. Duration of investigation

1. The duration of investigation shall not exceed 9 months from the date of the entry into force of the decision to initiate investigation. Under special circumstances the Competition Council may adopt the decision to extend the time limit but for no longer than 2 months. The notice of the extension of the investigation, stating the duration and the reasons thereof shall be published in the Official Gazette in accordance with paragraph 4 of Article 20.
2. If within 9 months of the adoption of the decision to initiate investigation and on the basis of information investigated, a conclusion is made that safeguard measures are unnecessary, the Competition Council shall, within 1 month, adopt the decision to terminate the investigation. This decision shall be published in the Official Gazette in accordance with paragraph 4 of Article 20.

CHAPTER 3

APPLICATION OF SAFEGUARD MEASURES

Article 10. Objectives of the application of safeguard measures

The safeguard measures shall be applied for the following objectives:

- 1) to eliminate serious injury caused to domestic producers or a threat thereof;
- 2) to provide conditions to domestic producers to adjust to the increased competition and to facilitate this adjustment.

Article 11. Terms and conditions for the application of safeguard duty as the provisional safeguard measure

During the investigation, a safeguard duty may be applied as a provisional safeguard measure against the imports in question, provided all the following conditions are met:

- 1) in the course of investigation preliminary determination has been made on the basis of objective data that the imports in question causes injury to Lithuanian producers ;
- 2) due to the impaired situation of domestic producers provisional safeguard measures must be applied without delay and if during investigation safeguard duty

shall be included in the total duration or extension of the application of safeguard measures, set forth in Article 15 and paragraphs 1 and 5 of Article 16.

3. The safeguard duty shall be imposed regardless of other duties concurrently

Article 14. The amount of the safeguard import quota

1. If on the basis of the findings of the investigation the Competition Council has taken the decision to apply a safeguard import quota, its level shall be set, stating the amount (in terms of its quantity or value) of imports allowed to be imported into the customs territory of the Republic of Lithuania per year.
2. The level of the safeguard import quota shall not be set lower than (in terms of volume or value) the average level of imports over the last three years and not lower than is necessary for the elimination of serious injury caused to the domestic producers or a threat thereof and to provide conditions for their adjustment to the increased competition of foreign producers and facilitate this adjustment. In establishing a quota, account shall be taken of the desirability of maintaining traditional trade flows, the volume of goods exported under contracts concluded before the entry into force of a safeguard measure where such contracts have been notified to the Competition Council.
3. Taking into consideration the findings of the investigation, safeguard import quota shall be allocated among the countries exporting the product in question or their groups, allocation may be agreed with those of them having a substantial interest in exporting the product concerned into the customs territory of the Republic of Lithuania. Failing this, the quota shall be allocated among these countries or groups of countries, in proportion to their share of imports concerned over the last three years, due account being taken of the factors which may have affected or may be affecting the trade in the product.
4. The departure from the requirements laid down in paragraph 2 of this Article shall be permitted if the imports concerned from the certain country or group of countries have increased in disproportionate percentage in relation to the total increase of imports of the product concerned over the period specified in paragraph 3 of this Article (safeguard import quotas for the imports concerned from such country or a group of countries may be stricter than those set in accordance with paragraph 2 of this Article. The departure referred to above shall not be permitted in the case of threat of serious injury to the domestic producers.

Article 15. Duration of a safeguard measure

The duration of safeguard measure must be limited to the period of time necessary to achieve the objectives specified in Article 10 of this law, but not longer than for 4 years, including the duration of the safeguard duty applied during the investigation, with the exception of cases where its duration is extended pursuant to Article 16 of this law.

Article 16. Extension of the safeguard measure

1. If there is sufficient evidence that the application of a safeguard measure is necessary in order to prevent or remedy serious injury, on the initiative of the Competition Council having taken an appropriate decision a repeat investigation may be conducted in accordance with the provisions of Chapter 2 of this law. During the repeat investigation safeguard duty, as a provisional safeguard measure may not be applied.
2. If during the repeat investigation it has been established that the extension of the application of a safeguard measure is necessary in order to prevent or remedy serious injury and there is evidence that domestic producers are adjusting to the increased competition with foreign companies, on the decision of the Competition Council the application of a safeguard measure may be extended. The extension

of the duration of a safeguard measure shall be governed by the provisions regulating the application of a safeguard measure if it is in compliance with the provisions of this Article.

3. The duration of the application of a safeguard import quota, set in accordance with paragraph 4 of Article 14, may not be extended .
4. The extended safeguard measure shall not be more restrictive than it was at the end of the initial period.
5. The total period of application, including the period of application of safeguard duty during the period of investigation, the initial period of application and any prorogation thereof may not exceed 8 years.

Article 17. Liberalization of a safeguard measure and surveillance of its application

1. In order to facilitate adjustment of domestic producers, where the duration of a safeguard measure exceeds one year, the measure must be progressively liberalised at regular intervals during the period of application, including the period of extension.
2. In implementing the requirement of paragraph 1 hereof, the Competition Council shall, by its decision establishing a safeguard measure, also approve the timetable for its liberalisation. The timetable for the liberalisation of a safeguard measure must be also approved in the case of the application of a safeguard measure is extended in accordance with paragraph 2 of Article 16.
3. If the duration of a safeguard measure exceeds three years, the authorised officials shall review the necessity for application of a safeguard measure no later than the mid-term of the period of application of that measure. The review shall be initiated no later than three months preceding the end of the mid-term. Reviews shall be carried out according to the same procedure as the investigation.
4. The Competition Council having received the report of the authorised officials about the findings of the reviews, shall adopt a relevant decision. If the serious e repr

application of a safeguard measures is necessary. The adoption of the decision to apply a safeguard measure shall be based on the provisions of Article 10, 11, 12, 13, 14, 15, 17, and 19. of this Chapter.

Article 19. Application of a safegu

Article 21 Confidential information

1. All information obtained under this law shall be used only for the purpose for which it was requested. Any information which is by nature confidential or which is provided on confidential basis by the supplier of information shall be treated as such by the authorities enforcing this law. The authorities implementing this law may not disclose such information without the consent of the supplier of such information.
2. Confidential by nature shall be any information the disclosure of which would have a significantly adverse effect upon a person supplying the information or upon the source of this information.
3. The supplier of confidential information shall be required to furnish non-confidential summaries thereof. If the supplier of the confidential information indicates that such information is not susceptible of summary, he must provide a statement of the reasons why summarization is not possible.
4. The supplier requesting to treat the information furnished by him as confidential, must indicate the reasons why his information should be treated as such. If it is considered that a request for confidentiality is not warranted and the supplier of the information is either unwilling to make the information available or to authorise its disclosure in generalized or summary form, such information may be disregarded unless its correctness may be proven by other sources.

CHAPTER 5 FINAL PROVISIONS

Article 22. International Agreements

If international agreements to which the Republic of Lithuania is a party contain provisions other than those laid down in this Law, the provisions of international agreement shall apply.

I promulgate this Law passed by the Seimas of the Republic of Lithuania

President of the Republic

Valdas Adamkus