

6. “**Serious injury**” means a significant overall impairment in the position of the domestic producers when the increased imports of the product in question has an adverse effect on the production of the like product, production capacity utilisation, stocks of the product, its sales, the share of the market taken by the product, the price of the product, profits, employment, etc.

7. “**Customs territory of the Republic of Lithuania**“ means the territory of the Republic of Lithuania bounded by the customs border of the Republic of Lithuania, unless otherwise provided for by international treaties to which the Republic of Lithuania is a party. For the purpose of this Law, products located in the freer economic zone shall be considered as located outside the boundaries of the customs territory of the Republic of Lithuania .

8. “**Customs boundaries of the Republic of Lithuania**” means the boundaries of the customs territory of the Republic of Lithuania coinciding with the state border of the Republic of Lithuania, except when otherwise provided for by the international treaties to which the Republic of Lithuania is a party.

9. “**Safeguard measures**” means measures restricting the imports into the customs territory of the Republic of Lithuania of the product in question, which are applied by the Republic of Lithuania in the form of a quota or customs duty.

10. “**Quota**” means quantitative restriction of imports of the product in question into the customs territory of the Republic of Lithuania, expressed in the annually permitted quantity (in physical or value terms) of imports of the product. A quota may be applied only where cases of imports into the customs territory of the Republic of Lithuania causing serious injury have been established following the conduct of the investigation specified in Article 4 of this Law (hereinafter referred to as the investigation).

11. “**Customs duty**” means a duty which may be applied as a provisional measure during the investigation, where there has been a preliminary determination of the fact of imports of the product in question causing serious injury, and as the final safeguard measure if it is determined at the end of the investigation that there is clear evidence of imports of the product in question into the Republic of Lithuania, which causes serious injury.

12. “**Interested parties**” for the purpose of the performance of procedures related to the determination and application of safeguard measures means:

1) the Lithuanian producers of the like or directly competitive products or trade or business associations, the majority of the members of which are the Lithuanian producers of the like or directly competitive products;

2) importers, foreign producers or exporters of the product in question or trade or business associations the majority of the members of which are importers, foreign producers or exporters of the product;

3) the governments of the country of origin of the product in question or of the states from which the product in question is imported into the customs territory of the Republic of Lithuania (hereinafter - the governments of the country of origin or of the exporting country of the product in question);

4) Lithuanian undertakings which use the product in question for the production of their products;

5) the Government of the Republic of Lithuania or other state institutions;

6) Lithuanian consumer protection organisations (public).

Article 3. State Institution in Charge of the Implementation of this Law

1. The institution authorised by the Government of the Republic of Lithuania (hereinafter referred to as the Institution) shall conduct investigation for the determination of imports causing serious injury, carry out reviews of the application of safeguard measures, make determinations as to the initiation of investigation or refusal to do same, performance of a review, extension of the period of investigation, termination of investigation, initiation of repeat investigation, also a determination as to the application of safeguard measures, extension, liberalisation or revocation of the safeguard measures to which the imported products are subjected. In addition to other information, the proposals submitted by the Institution to the Government of the Republic of Lithuania must also specify the facts and reasons, based whereon the application of safeguard measures, extension of their application period, liberalisation or revocation of the safeguard measures applied is proposed.

2. The Government of the Republic of Lithuania shall take decisions on the application of safeguard measures, the extension of the application duration, on the liberalisation or revocation of the applied safeguard measures.

CHAPTER TWO CONDUCT OF INVESTIGATION

Article 4. Purpose of Investigation

The purpose of investigation is to determine, on the basis of collected objective evidence, whether or not 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 an Investigation

1. An investigation to determine imports causing serious injury shall be initiated following the filing with the Institution by the domestic producers of a written application made out in accordance with the requirements laid down in Article 6 of this Law.

2. If the volume of production of the like product by the producer who filed the application does not account for a major proportion of the total production of the product in the customs territory of the Republic of Lithuania, the application filed with the Institution must be accompanied by the written approval of the application requesting to conduct investigation, submitted by other producers of the like product. The application requesting to conduct investigation shall be deemed filed by the domestic producers if approved of by the domestic producers of the like product who collectively account for a major proportion of the total production of the like product (with the total production of the like product by the producer who filed the application included) in the customs territory of the Republic of Lithuania.

3. On the decision of the Institution, the investigation may be commenced even without the application specified in paragraph 1 hereof having been filed, if the Institution obtains information from the association representing the domestic producers or the ministry within whose sphere of regulation is the production of the like product and the information contains the evidence indicated in Article 6 which is required to justify the conduct of the investigation.

Article 6. Application Requesting to Conduct an Investigation

1. An application requesting to conduct an investigation of imports causing serious injury shall include evidence of the existence of imports of the product in question causing serious injury, the serious injury caused by it to domestic producers or the threat thereof and of the existence of the causal link between the imports causing serious injury and the injury. The evidence shall be required to justify the conduct of the investigation. The application requesting to conduct an investigation must include the following information:

1) full name and address of the applicant (in case of a legal person or economic operator without legal personality, the name and address of its head office) and the volume of production of the like product (in physical and value terms) of the applicant and each domestic producer who approves of the request to conduct an investigation;

2) a complete description of the product in question so as to allow for its classification according to the Combined Nomenclature of the Republic of Lithuania of Common Customs Tariffs and Foreign Trade Statistics;

3) the names of the country of origin or exporting countries of the product in question;

4) a complete description of the like product and the code number of the product according to the Combined Nomenclature of the Republic of Lithuania of Common Customs Tariffs and Foreign Trade Statistics;

5) the names of the known exporters of the product in question;

6) the names of the known importers of the product in question.

2. Information on the adverse effect on domestic producers of the product in question (as indicated by such factors as production, utilisation of capacity, sales, market share, product price, profit (loss) level, employment, etc.), provided that the above information is available to the applicant, as well as other information containing sufficient evidence of the reasonableness of the application shall be filed alongside with the application.

3. Having received an application requesting to conduct the investigation as well as in the case specified in paragraph 3 of Article 5 of this Law, the Institution, prior to initiating the investigation, shall notify the governments of the country of origin of the product in question or the governments of the exporting countries thereof so as to be able to hold consultations with the above countries in order to ascertain the information and evidence specified in paragraph 1 of this Article and to find a solution acceptable to the Republic of Lithuania and the country of origin of the product in question or the exporting country. Should there be a delay in the consultations, the Institution shall not be thereby precluded from initiating the investigation.

Article 7. Consideration of the Application Requesting to Conduct an Investigation and Taking of a Decision Regarding the Investigation

1. Upon the receipt of the application the Institution shall check whether or not the application has been filed by the local producers as prescribed by paragraph 2 of Article 5 of this Law, whether or not the received application meets the requirements laid down in Article 6 of this Law and whether or not there is sufficient evidence to justify the conduct of the

7. Without derogation from Article 22, the interested parties which have submitted a written application must be provided access to the information supplied by other interested parties, on which the investigation conducted by the Institution is based.

8. In the course of investigation normally the information covering the last 3 years shall be examined. In any case the above period may not be less than six months.

9. Conducting the investigation, the Institution shall rely upon the available and obtained information, also on the information supplied by the interested parties in writing (within the time limit set in the decision to conduct the investigation or any other appropriate decision of the Institution).

10. If the interested party refuses to supply the necessary information, or supplies it after the expiry of all time limits or supplies only a part of it, or if it is established that the interested party has supplied false information, during the decision-making the false information shall be disregarded and the portion of the supplied information and other available information considered as reliable by the Institution, including information received from other accessible independent sources, shall be made use of. The interested parties shall be notified in writing that in case of failure to communicate the information, delay in the provision of information or provision of false information, the findings may be made making use of the evidence based on the information available to the Institution and information and documents supplied by the interested parties. In case the information submitted by the interested party contains inaccuracies which are verifiable and this does not encumber the use of the information, whereas the interested party has acted to the best of its ability to communicate the relevant information, such information shall not be disregarded.

11. If the evidence or information submitted by the interested party is not accepted, the supplying interested party shall be informed of the reasons therefor and shall be provided with an opportunity to give explanations within the time limit set by the Institution. If the explanations are considered unsatisfactory, the reasons for rejection of such evidence or information must be given in the relevant decision of the Institution.

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 an investigation. If, for objective reasons, it is impossible to complete the investigation within the set time limit, the Institution may adopt a decision to extend the time limit but for no longer than 2 months. A notice of the decision of the Institution to extend the duration of the investigation shall be published in the publication "*Valstybės žinios*" (Official Gazette). In addition to other information, the duration of the

extension period and the reasons thereof must be specified in the decision to extend the duration of investigation.

2. If the Institution, on the basis of information investigated during the investigation, makes a conclusion that the application of safeguard measures is unnecessary, it shall adopt a decision to terminate the investigation. The Institution's decision must be adopted within 1 month from the expiry of the time limit set in paragraph 1 hereof. The decision of the Institution to terminate the investigation shall be published in the publication "*Valstybės žinios*" (Official Gazette).

CHAPTER THREE

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 being caused to domestic producers or a threat thereof;
- 2) to provide conditions to domestic producers to adjust to the increased competition of foreign undertakings and to facilitate this adjustment.

Article 11. Terms and Conditions for the Application of Customs Duty as a Provisional Safeguard Measure

During the investigation, the imports of a product in question may be subjected to customs duty applied as a provisional safeguard measure, provided, however, that 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 of the product in question cause or threaten to cause serious injury to domestic producers ;
- 2) due to a significant impairment in the position of domestic producers, provisional safeguard measures must be applied without delay, since failure to apply customs duty during the investigation would cause serious damage to domestic producers which would be difficult to repair;
- 3) in view of the terms and conditions laid down in paragraphs 1 and 2 hereof, the Institution deems it expedient to apply customs duty during the investigation.

Article 12. Application of Customs Duty as a Provisional Safeguard Measure

1. If the terms and conditions laid down in Article 11 of this Law are met, the Institution shall make a decision to apply customs duty as a provisional safeguard measure

of the Republic of Lithuania if the person importing the product in question produces sufficient evidence confirming the fact that on the day of entry into force of the decision to apply a quota the products in question were already on their way to the customs territory of the Republic of Lithuania.

3. A safeguard measure (customs duty or a quota), its amount and the date from which the safeguard measure will be applied must be specified in the Institution's decision to apply the safeguard measure; the timetable for the liberalisation of the safeguard measure must also be approved.

4. In case the Institution has adopted a decision to apply customs duty as a definitive measure, customs duty shall be applied to the imports of the product in question in the manner laid down in paragraphs 3 and 4 of Article 12 of this Law.

5. The procedure for the administration of the quota shall be established by the Government of the Republic of Lithuania or the institution authorised by it.

Article 14. Level of a Quota

1. The level of a quota shall not be set lower than (in physical or value terms) the average level of imports over the last three years and not lower than is necessary for the elimination of serious injury being caused to the domestic producers or a threat thereof.

2. In establishing a quota, the Institution must take account of the desirability of maintaining traditional trade flows, the volume of products in question imported into the customs territory of the Republic of Lithuania under contracts concluded earlier (before the making of a decision to apply a safeguard measure) where such contracts have been notified to the Institution.

3. Taking into consideration the results of the investigation, the quota must be allocated among the countries exporting the product in question or groups of such countries. The quota shall be allocated upon agreement with the countries from which the product in question is imported 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 of the product in question over the last 3 years, due account being taken of the factors which are or may be affecting trade in the product in question.

4. Derogation from the requirements laid down in this Article shall be permitted if the imports of the product in question from a certain country or group of countries have increased in disproportionate percentage in relation to the total increase of imports of the product in question over the period specified in this Article (a quota, stricter than those applied under this Article, may be set to imports of the product in question from such country or a group of

countries). The derogation referred to above shall not be permitted where there is a threat of serious injury to the domestic producers.

Article 15. Duration of a Safeguard Measure

1. 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 customs 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 a 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 Institution, after an appropriate decision has been taken, a repeat investigation may be conducted in accordance with the provisions of Chapter Two of this Law. During the repeat investigation customs duty, as a provisional safeguard measure, may not be applied.

2. If it is established during the repeat investigation 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 producers, the application of a safeguard measure may be extended on the decision of the Institution. 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 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 of application of the safeguard measure.

5. The total period of application of a safeguard measure, including the period of application of customs duty as a safeguard measure during the period of investigation, the initial period of application of a safeguard measure and any prorogation thereof may not exceed 8 years.

Article 17. Liberalisation of a Safeguard Measure and Surveillance of its Application

1. In order to provide conditions for domestic producers to adjust to the increased competition with foreign producers and to facilitate this adjustment, 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. Pursuant to paragraph 1 hereof, the Institution shall, by its decision establishing a safeguard measure, also approve the timetable for its liberalisation. The timetable for the liberalisation of a safeguard measure shall also be approved in the case where the application of a safeguard measure is extended in accordance with paragraph 2 of Article 16.

3. If the established duration of a safeguard measure exceeds 3 years, the Institution must review the necessity for further application of the safeguard measure no later than the mid-point of the period of application of that measure. The review shall be initiated on the decision of the Institution no later than three months preceding the end of the mid-point. Reviews shall be carried out according to the requirements of Article 8 of this Law which are also applicable to the investigation. The decision of the Institution regarding the review of the application of a safeguard measure shall be published in the publication “*Valstybės žinios*” (“Official Gazette”).

4. If, upon completing the review, the Institution makes a conclusion that the serious injury or a threat thereof caused by imports of product in question have ceased to exist, diminished or if the revocation of a safeguard measure or an accelerated pace of liberalisation would facilitate the adjustment of domestic producers to the increased competition with foreign producers, the Institution may adopt a decision to revoke the safeguard measure or to accelerate the pace of its liberalisation.

Article 18. Reimposition of a Safeguard Measure

1. A safeguard measure may not be reimposed on imports of the product in question until a period equal to the duration of the previous measure has elapsed. Such period shall not be less than 2 years.

2. Notwithstanding the provision of paragraph 1 hereof, a safeguard measure may be reimposed on imports of the product in question for a period of 180 calendar days or less if the following two conditions are met:

1) at least 1 year has elapsed since the date of introduction of a safeguard measure on the imports of that product;

2) such safeguard measure has not been applied to the imports of the product in question more than twice in the 5-year period immediately preceding the date of the intended reimposition of the safeguard measure.

3. The safeguard measure may be reimposed, if the investigation has been initiated in accordance with the provisions of Chapter Two of this Law and it has been established during

the investigation that the application of a safeguard measures is necessary. The adoption of the decision to reimpose a safeguard measure shall be based on the provisions of Chapter Three of this Law. The validity of the reimposed safeguard measure may be extended in accordance with Article 16 of this Law.

Article 19. Application of a Safeguard Measure to Imports from Developing Countries

1. Safeguard measures shall not be applied to imports of a product originating in a developing country if the following two conditions are met:

1) the share of imports of the product in question from such a country does not exceed 3 per cent of the total imports of the product in question into the customs territory of the Republic of Lithuania;

2) imports of the product in question from the developing countries provided that developing countries with less than 3 per cent import share collectively account for not more than 9 per cent of total imports of the product in question into the customs territory of the Republic of Lithuania.

2. The list of developing countries, against whose imports of the product in question into the customs territory of the Republic of Lithuania the provisions of paragraph 1 hereof apply, shall be approved by the Government of the Republic of Lithuania or the institution authorised by it.

CHAPTER FOUR LODGING A COMPLAINT

Article 20. Lodging a Complaint against Decisions and Acts

1. If the interested party objects to the decisions made by the Institution, it shall have the right to lodge a complaint against the decisions with the Higher Administrative Tribunal. A complaint may be lodged with the Higher Administrative Tribunal within 3 months from the day of publishing of the decision which is the object of complaint or its delivery to the interested party.

2. If the interested party objects to the acts of the Institution, connected with the implementation of the Law, or its failure to act, the interested party shall have the right to lodge a complaint against the above act or omission with the Higher Administrative Tribunal. The complaint may be lodged with the Higher Administrative Tribunal within 1 month from the day of performance of the act that is complained against or the day of notification of the

decisions have been taken. Information shall be submitted in accordance with confidentiality requirements.

5. Alongside other information, the decisions of the Institution must give, having regard to the information confidentiality requirements, information on the facts, legal provisions and reasons on the basis whereof the decisions relative to the application, extension of application, liberalisation or revocation of safeguard measures have been taken.

Article 22. Confidential Information

1. All information obtained under paragraph 1 of Article 15 of the Treaty shall be confidential. The Institution shall

information received in accordance with Article 15(b) of the Treaty

in cases, the interested party indicates that the information is confidential, the interested party which is the subject of the information shall

ARTICLE 22. CONFIDENTIAL INFORMATION

2. Pursuant to the provisions of free trade agreements to which the Republic of Lithuania is a party, prior to initiating an investigation the Institution shall notify the Ministry for Foreign Affairs of the Republic of Lithuania of the received application requesting to conduct an investigation.

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

PRESIDENT OF THE REPUBLIC

VALDAS ADAMKUS