

ORDINANCE No. 42/2002/PL-UBTVQH10 ON SAFEGUARDS IN THE IMPORT OF FOREIGN GOODS INTO VIETNAM

In order to enhance the State management over the economy, create conditions for the Vietnamese economy to effectively integrate into the international economy, restrict unfavourable impacts causing serious harm to the domestic production due to abnormal increases in the import of goods into Vietnam;

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No 51/2001/QH10 of December 25, 2001 of the 10th National Assembly at its 10th session;

Pursuant to the Resolution of the 10th National Assembly, 10th session, on the 2002 law- and ordinance-making programme;

This Ordinance provides for the safeguard measures in the import of foreign goods into Vietnam,

GENERAL PROVISIONS

Article 1.- Scope of regulation

This Ordinance prescribes the safeguard measures, the conditions and procedures for the application of these measures in cases of excessive import of goods into Vietnam, which causes serious harm to the domestic production.

Article 2.- Right to apply safeguard measures

The Vietnamese government has the right to apply safeguard measures in cases where/ goods of a certain kind are excessively imported into Vietnam under the provisions of this Ordinance.

Article 3.- Safeguard measures

The safeguard measures in the import of foreign goods into Vietnam include:

1. Raising the import tariffs;
2. Imposing import quotas;
3. Other measures to be stipulated by the government.

Article 4.- Interpretation of terms

In this Ordinance, the following word phrases are construed as follows:

1. "Excessive import of goods" means the import of goods with a volume, quantity or value increasing, absolutely or relatively, as compared with the volume, quantity or value of similar or directly competitive home-made goods.
2. "Serious harm to the domestic manufacturing industry" means a state where such manufacturing industry declines considerably in its output, domestic consumption level, production profits, production growth rate, and

Article 7.- Consultation.

manufacturing industry;

9. Vietnam Peasants' Association;

10. The organization that protects the interests of Vietnamese consumers;

11. The competent Vietnamese State agencies;

12. Organisations and individuals having legitimate rights and interests related to the investigation process or being helpful for the investigation process.

Article 14.- Supply of information for the investigation process

1. The related State agencies, organisations and individuals shall have the responsibility to co-operate in and create favourable conditions for the investigation process as well as supply necessary information at the requests of the Ministry of Trade.

2. The Ministry of Trade shall have the responsibility to keep information confidential according the provisions of law.

Article 15.- Management of the import of goods subject to investigation

1. The process of investigation to consider the possibility to apply safeguard measures must not hinder the clearance of customs procedures for imported goods being subject to investigation.

3. The relation between the rapidly increasing import of the goods and the serious harm or threat to cause serious harm to the domestic manufacturing industry.

Article 17.- Termination of investigation

The Ministry of Trade shall decide to stop investigation in the following cases:

1. The submitters of the dossiers requesting the application of safeguard measures withdraw such dossiers during the investigation process;
2. The related foreign parties commit themselves to precluding the serious harm or the threat to cause serious harm to the domestic manufacturing industry;
3. Other cases to be stipulated by the government.

Article 18.- Investigation duration and publication of investigation results

1. The investigation duration shall be no more than 6 months as from the date the Ministry of Trade issues the investigation decision; in cases of necessity, the investigation duration may be extended once for another 2 subsequent months.
2. After the investigation concludes, the Ministry of Trade shall make public the investigation results.

Article 19.- Decision to apply or not to apply safeguard measures

1. On the basis of the investigation results, the Ministry of Trade shall issue decisions to apply or not to apply safeguard measures after consulting the concerned ministries and ministerial-level agencies. Such decisions must be made public.
2. The safeguard measures prescribed in this Ordinance may not be applied if their application results in one of the following consequences:
 - a/ Causing domestic socio-economic harm;
 - b/ Causing harm to the interests of the majority of goods consumers;
 - c/ Other consequences to be determined by the government.

APPLICATION OF SAFEGUARD ODM Article 197A-51re thep-70-531.2-51Sur

SCRUTINY OF SAFEGUARD MEASURES

Article 24.- Principles for scrutiny of safeguard measures

1. Where the duration of application of safeguard measures lasts for over three years, the Ministry of Trade shall have to scrutinize the safeguard measures before half of this duration passes so as to conclude whether to maintain, terminate, or mitigate the application of, the safeguard measures.
2. The scrutiny of safeguard measures must comply with the provisions in Chapter II of this Ordinance.

Article 25.- Decision on the results of scrutiny of safeguard measures

After scrutinizing the safeguard measures, the Ministry of Trade shall issue one of the following decisions:

1. To maintain the safeguard measures being applied;
2. To mitigate the application of these measures;
3. To terminate the safeguard measures being applied.

according to the following regulations:

1. Where a safeguard measure was applied to a certain kind of goods for over 4 years, it may be re-applied thereto only after a time equal to half of such duration has passed.

2. Where a safeguard measure was applied to a certain kind of goods for between six months and four years, it may be re-applied thereto only after two years have passed.

3. Where a safeguard measure was applied to a certain kind of goods for less than six months, it may be applied thereto only if the following conditions are fully met:

a/ At least one year has passed after the previous application of the safeguard measure;

b/ The safeguard measure has been applied to the goods twice at most within five years

safeguard measures.

Article 29.-Agencies in charge of the State management over the application of safeguard measures

1. The government shall perform the unified State management over the application of safeguard measures.

The government shall specify and guide the implementation of this Ordinance.

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