

**MINISTRY OF INDUSTRY  
AND TRADE**

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No.: 30/2020/TT-BCT

**SOCIALIST REPUBLIC OF VIET NAM  
Independence-Freedom-Happiness**

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*Hanoi, November 26, 2020*

**CIRCULAR**

**PROVIDING GUIDELINES FOR IMPLEMENTATION OF THE FREE TRADE  
AGREEMENT BETWEEN THE SOCIALIST REPUBLIC OF VIETNAM AND THE  
EUROPEAN UNION REGARDING TRADE REMEDIES**

*Pursuant to the Law on Foreign Trade Management No. 05/2017/QH14 dated June 12, 2017;*

*Pursuant to the Resolution No. 102/2020/QH14 dated June 08, 2020 of the National Assembly giving approval for the Free Trade Agreement between the Socialist Republic of Vietnam and the European Union;*

*Pursuant to the Government's Decree No. 98/2017/ND-CP dated August 18, 2017 defining the Functions, Tasks, Powers and Organizational Structure of the Ministry of Industry and Trade;*

*Pursuant to the Government's Decree No. 10/2018/ND-CP dated January 15, 2018 on guidelines for the Law on Foreign Trade Management regarding trade remedies;*

*At the request of the Director of the Trade Remedies Authority of Vietnam;*

*The Minister of Industry and Trade promulgates a Circular providing guidelines for implementation of the Free Trade Agreement between the Socialist Republic of Vietnam and the European Union regarding trade remedies.*

**Chapter I**

**GENERAL PROVISIONS**

**Article 1. Scope**

1. This Circular provides guidelines for imposition of bilateral safeguard measures, anti-dumping and countervailing measures for the purposes of implementation of the Free Trade Agreement between the Socialist Republic of Vietnam and the European Union.

2. Regulations herein shall apply to goods originating in:

- The territory of a member state of the EU;
- The United Kingdom of Great Britain and Northern Ireland; and

- The Principality of Andorra; Republic of San Marino.

### **Article 2. Regulated entities**

1. Vietnamese regulatory authorities that have jurisdiction to investigate, impose and deal with trade remedies for implementation of the Agreement.
2. Domestic and foreign traders, authorities, organizations and individuals involved in the investigation, imposition and handling of trade remedies for implementing the Agreement.

### **Article 3. Definitions**

For the purposes of this Circular, the terms below are construed as follows:

1. “Agreement” means the Free Trade Agreement between the Socialist Republic of Vietnam and the European Union.
2. “bilateral safeguard measure” means a measure prescribed in Article 3.10 Chapter 3 of the Agreement and in Article 99 of the Law on Foreign Trade Management.
3. “transition period” means a period commencing on August 01, 2020 and ending on July 31, 2030.
4. “domestic industry” in investigation and imposition of bilateral safeguard measures means the producers as a whole of the like or directly competitive good operating within the territory of Vietnam or those producers whose collective production of the like or directly competitive good constitutes a major proportion of the total domestic production of that good. The major proportion of the total domestic production shall be determined in accordance with the provisions in Clause 2 Article 4 of the Decree No. 10/2018/ND-CP.
5. “investigating authority” means the Trade Remedies Authority of Vietnam affiliated to the Ministry of Industry and Trade.

## **Chapter II**

### **ANTI-DUMPING AND COUNTERVAILING MEASURES**

#### **Article 4. Consideration of socio-economic interests**

1. The Ministry of Industry and Trade shall decide not to impose the anti-dumping or countervailing measures where, on the basis of the information made available during the investigation, the investigating authority clearly concludes that it is not in the socio-economic interests to apply such measures.
2. In determining the socio-economic interests, the investigating authority shall take into account the situation of the domestic industry, importers and their representative associations,

representative users and representative consumer organizations, based on the relevant information provided to it.

### **Article 5. Lesser duty rule**

1. An anti-dumping duty or countervailing duty imposed shall not exceed the margin of dumping or countervailable subsidy.
2. Based on conclusions given by the investigating authority, the Ministry of Industry and Trade shall consider imposing an amount of anti-dumping duty or countervailing duty lesser than the margin of dumping or countervailable subsidy if such lesser duty would be adequate to remove the injury to the domestic industry.

## **Chapter III**

### **BILATERAL SAFEGUARD MEASURES**

#### **Article 6. Rules for imposition of bilateral safeguard measures**

1. At the same time, a bilateral safeguard measure and a safeguard measures under Article XIX of the General Agreement on Tariffs and Trade in 1994 (GATT 1994) shall not apply with respect to the same good applying the most-favoured-nation rate of customs duty under the Agreement.
2. A bilateral safeguard measure shall not apply beyond the transition period, except with the consent of the European Union.
3. The investigation and application of a bilateral safeguard measure must comply with the regulations laid down the Law on Foreign Trade Management, Decree No. 10/2018/ND-CP and the provisions of this Chapter.

#### **Article 7. Application for imposition of bilateral safeguard measures**

1. An application for imposition of a bilateral safeguard measure (referred to as “application” in this Chapter) includes the application form for imposition of a bilateral safeguard measure and relevant documents specified in Article 47 of Decree No. 10/2018/ND-CP.
2. The application form for imposition of a bilateral safeguard measures prepared according to Clause 2 Article 47 of Decree No. 10/2018/ND-CP must include the following information:
  - a) Name, address and other necessary information of the representative of the domestic industry;
  - b) Information, figures and evidences used for determining the representative of the domestic industry, including the list of producers of the like or directly competitive good; amount, quantity of the like or directly competitive good manufactured by those producers;

- c) Name, address of producers of the like good supporting or opposing the case;
- d) Description of the imported good applying the most-favoured-nation rate of customs duty under the Agreement and subject to the investigation for imposition of the safeguard measure, including scientific name, commercial name, common name, composition, physical and chemical properties, main uses, production process, applied international and Vietnamese standards and/or regulations, HS code and the most-favoured-nation applied rate of customs duty in effect as specified in the special preferential import tariff schedule for implementation of the Agreement;
- dd) Description of the like or directly competitive good of the domestic industry, including scientific name, commercial name, common name, physical and chemical properties, main uses, production process, applied international and Vietnamese standards and/or regulations;
- e) Information relating to amounts, quantities and values of the imported good as prescribed in Point d of this Clause within the 03-year period before submitting the application, including at least 06 months after the Agreement comes into force;
- g) Information relating to amounts, quantities and values of the like or directly competitive good produced by the domestic industry as prescribed in Point dd of this Clause within the 03-year period before submitting the application, including at least 06 months after the Agreement comes into force. If the operating duration of the domestic industry is less than 03 years, the submitted data shall include the entire operating duration of the domestic industry by the time of submission of the Application;
- h) Information, figures and evidences about the serious injury or threat of serious injury to the domestic industry;
- i) Information, figures and evidences about the causal link between the imported good prescribed in Point d of this Clause and the serious injury or threat of serious injury to the domestic industry;
- k) Specific request for application of the safeguard measure, duration and level of the safeguard measure.

### **Article 8. Notification**

The investigating authority shall send a written notification to the European Union of all information leading to the initiation of an investigation for application of a bilateral safeguard measures and request for consultations with the European Union as prescribed in the Agreement.

### **Article 9. Investigation, application of bilateral safeguard measures**

1. The time limit for investigation for application of a bilateral safeguard measure is 01 year from the date on which the decision to initiate the investigation is issued.

2. The Minister of Industry and Trade shall decide to impose the bilateral safeguard measure when the report given by the investigating authority contains the following findings:

- a) There is an absolute or relative increase in amounts/quantities of imported good applying the most-favoured-nation rate of customs duty under the Agreement, compared to those of the like and directly competitive good domestically produced;
- b) The domestic industry suffers from serious injury or threat of serious injury;
- c) The serious injury or threat of serious injury incurred by the domestic industry is caused by the increased imports as set out in Point a of this Clause.

3. The applied bilateral safeguard measure includes:

- a) Suspension of the further reduction of the rate of customs duty on the imported good as provided for in the Agreement; or
- b) Increase of the rate of customs duty on the imported good to a level which does not exceed the lesser of the at the most-favoured-nation applied rate of customs duty on the imported good in effect at the time the measure is taken, or the base rate of customs duty on the imported good specified in the schedules included in Annex 2-A (Elimination of Customs Duties) pursuant to Article 2.7 (Reduction or Elimination of Customs Duties) of the Agreement.

4. A bilateral safeguard measure shall be maintained for a period not exceeding 02 years. This period may be extended up to 02 years if the investigating authority determines that the bilateral safeguard measure continues to be necessary to prevent or remedy serious injury and to facilitate adjustment for the domestic industry.

5. Where the expected duration of a bilateral safeguard measure is over 02 years, it must be progressively liberalized at regular intervals during the period of application.

6. On the termination of a bilateral safeguard measure, the rate of customs duty imposed on the relevant good shall be the duty set out in the Agreement in effect at the time of termination of such bilateral safeguard measure.

#### **Article 10. Interested parties in investigation and application of bilateral safeguard measures**

1. Interested parties in investigation and application of bilateral safeguard measures include:

- a) The producer or exporter whose good is imported into the territory of Vietnam and subject to the investigation;
- b) The importer of a good subject to investigation;

- c) The trade or business association a majority of the members of which are producers or exporters of a good subject to investigation;
  - d) The government and competent authorities of the European Union exporting a good subject to investigation;
  - dd) The applicant for imposition of a bilateral safeguard measure;
  - e) The producer of the domestic like or directly competitive good;
  - g) The trade or business association of Vietnam a majority of the members of which produce the domestic like or directly competitive good;
  - h) Such other person or organization that has legitimate rights and interests related to or useful for the investigation or representative consumer organizations.
2. Any organization or individual desiring to become an interested party in the investigation shall register with and must be approved by the investigating authority in accordance with regulations of the Law on Foreign Trade Management.
3. Interested parties in an investigation are entitled to access information and documents as provided for in Article 9 of Decree No. 10/2018/ND-CP.

## **Chapter IV**

### **IMPLEMENTATION**

#### **Article 11. Effect**

1. This Circular comes into force from January 11, 2021.
2. Regulations herein will apply to goods originating in the United Kingdom of Great Britain and Northern Ireland after this Circular comes into force until December 31, 2020 inclusively (this period may be extended up to 24 months under the agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union)/.

**MINISTER**

**Tran Tuan Anh**

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