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**中国五矿化工进出口商会**

**LAW ON FOREIGN TRADE MANAGEMENT OF VIETNAM**

越南《对外贸易管理法》

*Pursuant to the Constitution of the Socialist Republic of Viet Nam, The National Assembly promulgates the Law on Foreign Trade Management.*

根据《越南社会主义共和国宪法》，国民议会颁布《对外贸易管理法》。

**Chapter IV TRADE REMEDIES**

第四章 贸易救济

**Section 1 GENERAL PROVISIONS**

第一节 概述

**Article 67. Trade remedies**

第67条 贸易救济

1. Trade remedies include anti-dumping, countervailing and safeguard measures which the Minister of Industry and Trade decides to apply to imports into Viet Nam on a case-by-case basis.

贸易救济措施包括反倾销、反补贴和保障措施，是工业和贸易部（下简称工贸部）部长决定对越南进口案件适用这些措施的基础。

1. The Government shall prescribe in detail methods of determining injury to a domestic industry; anti-circumvention of trade remedies; grounds for initiating, and the order, procedures, time limit, contents, and grounds for termination of, investigations of trade remedy cases (hereinafter referred to as investigations); application and review of trade remedies; identification of subsidies and countervailing measures; responsibilities of related agencies to coordinate with one another in the investigation process; and handling of trade remedies applied against Vietnamese exports.

政府应详细规定对国内产业损害的认定方法、贸易救济的反规避、案件申请的依据，以及命令、程序、时限、内容和终止的理由、贸易救济案件（以下统称调查）的适用和复审、补贴和反补贴措施的认定;有关机构在调查过程中相互协调的责任;针对越南出口的贸易救济的处理。

1. The Minister of Industry and Trade shall prescribe in detail interested parties in investigation cases, the provision, collection and confidentiality of information and documents; spoken and written languages used in the investigation process; management of the import of products under investigation for application of trade remedies; and cases of exemption from trade remedies.

工贸部部长应详细规定调查案件中的利害关系方、信息和文件的提供、收集和保密、调查过程中使用的口头和书面语言、为适用贸易救济而调查的产品的进口管理，以及贸易救济的豁免案件。

# Article 68. Principles of application of trade remedies

# 第68条.贸易救济的适用原则

1. Trade remedies shall be applied within a scope or to an extent as necessary and reasonable and within a given period with a view to protecting, preventing, or limiting injury to, a domestic industry.

贸易救济应在一定范围内或者在必要而合理的程度内，以及在一定时期内适用，以期保护、防止或限制对国内产业的损害。

1. Trade remedies shall only be applied after an investigation has been conducted in a transparent, fair and lawful manner, and based on the investigation determinations.

只有在以透明、公平和合法的方式进行调查之后，才能根据调查结果进行贸易救济。

1. Decisions on investigation and application of trade remedies shall be publicly announced.

关于调查和采取贸易救济的决定，应当进行公告。

1. If the official duty rate of a trade remedy is higher than the provisional one, the duty difference shall not be collected.

如果贸易救济措施的正式税率高于临时税率，则不征收关税差额。

1. If the official duty rate of a trade remedy is lower than the provisional one, the duty difference shall be refunded.

如果贸易救济措施的正式税率低于临时税率，差额应予退还。

1. In case the Minister of Industry and Trade decides not to apply an official trade remedy, the collected provisional duty or the amount deposited to secure payment of provisional duty shall be refunded.

如果工贸部部长决定不采取正式的贸易救济措施，为确保缴纳临时关税而征收的临时关税或存入的款项应予退还。

# Article 69. Injury to a domestic industry

# 第69条.对国内产业的损害

1. A domestic industry means a group of producers of like products within the Vietnamese territory or their representatives that manufacture products making up a major percentage in the total output of domestically manufactured products of such industry. A domestic producer that directly imports products under investigation or has relations with exporters or importers of products under investigation might not be considered a domestic producer.

国内产业是指在越南境内生产同类产品的一群生产者或其代表，他们生产的产品在这类工业的国内制造产品总产量中占很大比例。直接进口被调查产品或与被调查产品的出口商或进口商存在关联关系的国内生产商，可以不被视为国内生产商。

Like products are products that have all properties resembling those of the products under investigation. If such products are not available, like products are products that have many basic properties resembling those of the products under investigation.

同类产品是指与被调查产品的特征相似的产品。如果不存在这类产品，同类产品就是许多基本特征与被调查产品类似的产品。

1. Injury to a domestic industry shall be determined as follows:

国内产业受到的损害应进行以下认定:

* 1. Material injury to a domestic industry is a situation in which a domestic industry experiences a material decline or retarded growth in its production and business;

国内产业遭受实质性损害，是指国内产业生产和经营出现实质性下降或者增长减慢的情况;

* 1. Threat of material injury to a domestic industry is an immediate, clear and provable possibility of causing material injury to a domestic industry;

对国内产业造成实质性损害的威胁是指对国内产业造成实质性损害的直接、明确和可证实的可能性;

* 1. Impediment to the formation of a domestic industry is a situation that leads to difficulties to the formation of a domestic industry;

阻碍国内产业的形成是指导致难以形成国内产业的情形;

* 1. Serious injury to a domestic industry is a situation in which a domestic industry experiences an overall decline in its production and business activities;

国内产业受到的严重损害，是指国内产业的生产和经营活动总体下降的情况;

dd) Threat of serious injury to a domestic industry is an immediate, clear and provable possibility of causing serious injury to a domestic industry.

对国内产业造成严重损害的威胁是对国内产业造成严重损害的直接、明确和可证实的可能性。

# Article 70. Order and procedures for investigation of trade remedy cases

# 第70条.调查贸易救济案件的命令和程序

1. Organisations or individuals representing a domestic industry may submit a dossier of request for application of trade remedies if seeing that products are dumped or subsidised upon import or are excessively imported, thus causing injury to that domestic industry.

代表国内产业的组织或个人如果看到产品在进口时存在倾销或补贴或过度进口，并对国内产业造成损害，可提交采取贸易救济的申请。

1. Within 45 days from the date of issuance of a notice of a valid dossier, based on the proposal of the trade remedy investigating authority (hereinafter referred to as the investigating authority), the Minister of Industry and Trade shall issue a decision to initiate or not to initiate an investigation. In special cases, this time limit may be extended once for no more than 30 days.

根据贸易救济调查机关(以下简称调查机关)的建议，工贸部部长应在发布收到有效卷宗通知之日起45天内作出启动或不启动调查的决定。在特殊情况下，这一期限可以延长一次，但不得超过30天。

1. The time limit for investigation is prescribed as follows:

调查时限的规定如下:

* 1. An investigation for application of anti-dumping or countervailing measures may last up to 12 months from the date of issuance of an investigation decision. In special cases, the Minister of Industry and Trade may extend this time limit, provided the total period of investigation must not exceed 18 months;

对于采取反倾销或反补贴措施的调查，自作出调查决定之日起，最长可持续12个月。在特殊情况下，工贸部部长可延长这一期限，但调查总时间不得超过18个月;

* 1. An investigation for application of safeguard measures will last up to 9 months from the date of issuance of an investigation decision. In special cases, the Minister of Industry and Trade may extend this time limit, provided the total period of investigation must not exceed 12 months.

自发布立案决定之日起，保障措施的调查期为9个月。在特殊情况下，工贸部部长可延长这一时限，但调查总时间不得超过12个月。

1. Consultation in the investigation process is prescribed as follows:

调查过程中的磋商规定如下:

* 1. Interested parties in an investigation case are entitled to present in writing information and opinions relating to such case to the investigating authority;

调查案件的利害关系方有权以书面形式向调查机关提交与该案件有关的资料和意见;

* 1. The investigating authority shall provide consultation opportunities for interested parties when receiving the latter's written request under Point a of this Clause;

调查机关在收到利害关系方根据本条第a款提出的书面请求时，应当向后者提供磋商的机会;

* 1. Before announcing its final determination, the investigating authority may hold a public consultation for interested parties to present information and opinions relating to the investigation case.

调查机关在作出最终裁决之前，可以公开征求意见，请利害关系方就调查案件提供信息和意见。

1. The notification responsibility is prescribed as follows:

通知责任的规定如下:

* 1. Within 15 days from the date the Minister of Industry and Trade issues a decision to initiate an anti-dumping or countervailing investigation, the investigating authority shall notify the investigation to the government of the country of the related producer/exporter and other interested parties;

自工贸部部长作出启动反倾销或反补贴调查的决定之日起15天内，调查机关应通知有关生产商/出口商和其他利害关系方的国家政府;

* 1. The investigating authority shall publicly announce its preliminary investigation determination, final investigation determination, approval of commitments and termination of investigation to interested parties in an investigation case;

调查机关应当向调查案件的利害关系方发布初裁决定、终裁决定、承诺批准和终止调查的公告;

* 1. The investigating authority shall perform other notification obligations under treaties to which the Socialist Republic of Viet Nam is a contracting party.

调查机关应履行越南社会主义共和国为缔约方的条约规定的其他通知义务。

# Article 71. Termination of investigation of trade remedy cases

# 第71条.贸易救济案件的终止调查

The Minister of Industry and Trade shall decide to terminate investigation in the following cases:

工贸部部长应决定终止对下列案件的调查:

1. An organisation or individual that submits a dossier of request for application of trade remedies voluntarily withdraws such dossier;

提交贸易救济调查申请书的组织或者个人自愿撤销申请；

1. The investigating authority's preliminary determination states that no injury is caused or there is no threat of injury to a domestic industry or there is no impediment to the formation of a domestic industry;

调查机关的初裁认定，国内产业没有受到损害或损害威胁，或者国内产业的形成没有受到阻碍;

1. The investigating authority's final determination states one of the following contents:

调查机关的终裁决定包括以下内容中的一项:

* 1. The imported products under investigation are neither dumped nor subsidised or such products are not excessively imported;

被调查的进口产品既没有倾销也没有得到补贴，或者该产品没有被过度进口;

* 1. No injury is caused to a domestic industry as prescribed in Clause 2, Article 69 of this Law;

本法第六十九条第二款规定的国内产业没有受到损害;

* 1. There is no causal relationship between the import of products which are claimed to be dumped or subsidised or excessively imported and the extent of injury or threat of injury to a domestic industry or the impediment to the formation of a domestic industry;

所谓倾销或补贴或过度进口的产品，对国内已有产业受到损害或受到损害威胁，或国内产业的新建受到阻碍之间不存在因果关系;

1. The investigating authority has reached agreement with the competent authority of the country having the products claimed to be subsidised upon import into the Vietnamese territory on removal of the subsidy.

调查机关已经与被诉补贴产品的政府达成协议，在取消补贴之后，再将被诉的补贴产品进口到越南。

# Article 72. Anti-circumvention of trade remedies

# 第72条.贸易救济的反规避

1. Circumvention of a trade remedy means an act aiming to circumvent part or the whole of the obligation to comply with a trade remedy currently in force with regard to the products subject to this remedy upon import into the Vietnamese territory.

贸易救济的规避是指对于进口到越南领土时受到救济措施约束的产品，规避遵守现行贸易救济的部分或全部义务的行为。

1. A trade remedy currently in force may be expanded in the case the investigating authority identifies an act of circumvention of a trade remedy.

如果调查机关发现规避贸易救济的行为，可以扩大目前生效的贸易救济。

1. The investigating authority may initiate an investigation against an act of circumvention of a trade remedy at the request of the representative of a domestic industry or based on information it has acquired.

调查机关可应国内产业代表的请求或根据其获得的信息，对规避贸易救济的行为启动调查。

1. Based on the investigating authority's conclusion, the Minister of Industry and Trade shall issue a decision to apply measures for anti-circumvention of trade remedies for investigated products or their components imported from related countries.

根据调查机关的结论，工贸部部长应发布决定，对从有关国家进口的被调查产品或其部件采取反规避贸易救济措施。

# Article 73. The investigating authority

# 第73条 调查机关

1. The investigating authority shall be established by the Government as part of the organisational structure of the Ministry of Industry and Trade.

调查机关应由政府设立，作为工贸部组织结构的一部分。

1. The investigating authority has the following tasks and powers:

调查机关拥有以下任务和权力:

* 1. To receive dossiers of request for investigation for application of trade remedies and notify whether or not they are valid or request their supplementation;

收取贸易救济调查调查申请材料，并告知申请材料是否有效或要求补充;

* 1. To propose to the Minister of Industry and Trade for the issuance of a decision to initiate or not to initiate an investigation for application of trade remedies;

建议工贸部部长作出是否启动贸易救济调查的决定;

* 1. To organise investigations for application of trade remedies and against acts of shirking trade remedies;

组织调查，以便采取贸易救济措施和打击逃避贸易救济措施的行为;

* 1. To propose to the Minister of Industry and Trade for the issuance of a decision to apply trade remedies; to apply measures for anti-circumvention of trade remedies; to change trade remedies based on investigation conclusions or review conclusions;

向工贸部部长提议作出采取贸易救济、采取反规避贸易救济的措施、根据调查结论或审查结论变更贸易救济的决定;

dd) To review trade remedies;

dd) 复审贸易救济措施;

* 1. To propose to the Minister of Industry and Trade for termination of investigation or termination of the application of trade remedies;

向工贸部部长建议终止调查或终止贸易救济措施的适用;

1. To assume the prime responsibility for participating in the settlement of disputes at bilateral and multilateral mechanisms in the investigation for application of trade remedies against imports into Viet Nam and Vietnamese exports;

负责参加针对越南和越南出口产品采取贸易救济措施的双边和多边争端解决机制;

1. To assume the prime responsibility for assisting and responding to cases in which Vietnamese exports are investigated for application of trade remedies;

负责协助和应对针对越南出口产品采取贸易救济措施的调查;

1. To assume the prime responsibility for working out plans on, and negotiating compensations in cases of investigation for application of safeguard measures against imports into the Vietnamese territory;

在对进入越南领土的进口品进行保障措施调查的情况下，承担制定计划和谈判赔偿的主要责任;

1. To inspect and examine the implementation of trade remedies by organisations and individuals involved in the investigation and application of trade remedies;

检查和审查贸易救济调查涉及的组织和个人实施贸易救济措施的情况;

1. Other tasks and powers as prescribed by law.

法律规定的其他任务和权力。

1. The head of the investigating authority shall be appointed, relieved from office or dismissed by the Minister of Industry and Trade and shall direct this body to perform the tasks and exercise the powers defined in Clause 2 of this Article.

调查机关的负责人应由工贸部部长任命、免职或解职，并应指示该机关执行本条第2款规定的任务和行使其权力。

1. The Minister of Industry and Trade shall define the tasks, powers and organisational structure of the investigating authority.

工贸部部长应确定调查机关的任务、权力和组织结构。

# Article 74. Interested parties in investigation cases

# 第74条调查案件的利害关系方

1. Interested parties in an investigation case include:

调查案件中的利害关系方包括:

* 1. Overseas organisations and individuals that manufacture and export products under investigation into the Vietnamese territory;

生产和出口至越南的被调查产品的海外组织和个人;

* 1. Organisations and individuals that import products under investigation;

进口被调查产品的组织和个人;

* 1. Foreign associations with a majority of their members being organisations and individuals that manufacture and export products under investigation;

成员以生产和出口被调查产品的组织和个人为主的外国协会;

* 1. The government and competent authorities of the country that exports products under investigation;

出口被调查产品的国家的政府和主管部门;

dd) Organisations or individuals that submit a dossier of request for application of trade remedies;

提交贸易救济申请的组织或个人;

* 1. Domestic organisations or individuals that manufacture like products;

制造同类产品的国内组织或个人;

1. Domestic associations with a majority of their members being organisations or members that manufacture like products;

大多数成员是生产同类产品的国内协会;

1. Other organisations and individuals that have lawful rights and interests related to the investigation case or can assist in the investigation process or representative organisations that protect consumer interests.

与调查案件相关、具有合法权益或者可以协助调查的其他组织和个人，或者保护消费者权益的代表组织。

1. Organisations and individuals shall register with and obtain approval from the investigating authority in order to become interested parties in an investigation case.

组织和个人应向调查机关登记并获得批准，以便成为调查案件的利害关系方。

1. Interested parties in an investigation case may have access to information and documents provided by other interested parties to the investigating authority, except information and documents prescribed in Clause 2, Article 75 of this Law.

调查案件的利害关系方可以查阅其他利害关系方向调查机关提供的信息和文件，但本法第75条第2款规定的信息和文件除外。

# Article 75. Provision and collection of information and documents and confidentiality in the investigation of trade remedy cases

# 第75条 在贸易救济调查案件中信息和文件的提供和收集，以及保密性

1. Interested parties in an investigation case shall provide necessary information and documents at the request of the investigating authority.

调查案件的利害关系方应当根据调查机关的要求提供必要的信息和文件。

1. In the investigation process, the investigating authority and persons entitled to access information and documents relating to the investigation case shall keep such information and documents confidential at the request of information and document providers.

在调查过程中，应信息和文件提供者的要求，调查机关以及有权获取与调查案件有关的信息和文件的人，应对这些信息和文件保密。

1. When necessary, the investigating authority may solicit an expert assessment or examine and verify the authenticity of information and documents provided by interested parties or collect additional information and documents necessary for the settlement of a trade remedy case. The investigating authority may conduct on-site investigations, including overseas investigations.

必要时，调查机关可请求进行专家评估，或审查和核实利害关系方提供的资料和文件的真实性，或收集贸易救济案件所需的补充资料和文件。调查机关可进行实地调查，包括海外调查。

1. In case the to-be-investigated party does not allow the investigating authority to access or refuses to provide information and documents that are important to the investigation, the investigating authority may use information and documents provided by interested parties or collected by itself or available information and documents to make investigation conclusions.

如果被调查的当事方不允许调查机关查阅或拒绝提供对调查重要的信息和文件，调查机关可以利用利害关系方提供的信息和文件或自己收集的信息和文件或现有的信息和文件作出调查结论。

# Article 76. Handling of cases in which Vietnamese exports are investigated for application of or applied with trade remedies

# 第76条 处理被采取措施的越南出口贸易救济调查案件

1. In the case a Vietnamese trader is investigated for application or applied with a trade remedy by the importing country, the Ministry of Industry and Trade shall, at the proposal of the related line association and trader, assume the prime responsibility for, and coordinate with other ministries, ministerial-level agencies and competent state management agencies in, carrying out within the ambit of their respective tasks and powers the following activities to assist the trader:

如果越南贸易商受到贸易救济调查，工贸部应根据相关协会和贸易商的提议，负责并与其他部委、部级机构和国家主管管理机构协调，在各自任务和权力范围内开展下列活动，以协助贸易商:

* 1. Providing information relating to the case;

提供与案件有关的资料;

* 1. Exchanging information with the importing country that is conducting an investigation or applying a trade remedy against Vietnamese exports;

与正在对越南出口产品进行调查或适用贸易救济措施的进口国交换信息;

* 1. Initiating a lawsuit against the importing country when detecting a violation of the relevant treaty to which the Socialist Republic of Viet Nam is a contracting party;

在发现违反越南社会主义共和国为缔约方的有关条约时，对进口国提起诉讼;

dd) Carrying out other support activities in accordance with law.

dd)依法开展其他支持活动。

1. In the case a Vietnamese trader is investigated for application of countervailing measures by the importing country, the Ministry of Industry and Trade shall assume the prime responsibility for, and coordinate with related ministries, ministerial-level agencies and provincial-level People's Committees in, working out a plan for coordination with the foreign investigating authority in accordance with the relevant treaty to which the Socialist Republic of Viet Nam is a contracting party.

如果某个越南贸易商受到进口国的反补贴调查，工贸部将承担主要责任，并与有关部委、部级机构和省级人民委员会协调，根据越南社会主义共和国为缔约方的有关条约，制定与外国调查机关协调的计划。

1. In the case a Vietnamese trader is investigated for application of safeguard measures by the importing country, the Ministry of Industry and Trade shall assume the prime responsibility for, and coordinate with related ministries, ministerial-level agencies, organisations and individuals in, working out a plan on claim for compensation or retaliation in accordance with the relevant treaty to which the Socialist Republic of Viet Nam is a contracting party.

如果越南贸易商受到进口国的保障调查调查，则工贸部应承担主要责任，并与有关部委、部级机构、组织和个人协调，根据越南社会主义共和国为缔约方的有关条约制定索赔或报复计划。

# Section 2

# 第二部分

**ANTI-DUMPING AGAINST IMPORTS INTO VIET NAM**

对越南进口产品的反倾销

**Article 77. Anti-dumping measures**

第77条反倾销措施

1. Anti-dumping measures against products imported into Viet Nam (hereinafter referred to as anti- dumping measures) are measures which are applied in the case the imported products are identified as being dumped into Viet Nam, causing material injury or threatening to cause material injury to a domestic industry or impeding the formation of a domestic industry.

对进口到越南的产品采取的反倾销措施(以下简称反倾销措施)是指在认定进口到越南产品存在倾销，并且对越南国内产业造成实质性损害或者损害威胁，亦或阻碍国内产业的建立的情况下所采取的措施。

1. Products shall be identified as being dumped when they are imported into Viet Nam at prices lower than the comparable normal values of like products sold in the exporting country or in a third country in the ordinary course of trade or at values determined by the investigating authority by the self-calculation method.

如果进口到越南的产品价格低于在出口国或在正常贸易过程中在第三国销售的同类产品的可比正常价值，或者低于调查机关通过自行计算方法确定的价值，则应将这些产品认定为倾销。

1. Anti-dumping measures include:

反倾销措施包括：

* 1. Imposition of anti-dumping duties;

征收反倾销税;

* 1. Commitment on measures to eliminate dumping by the organisation or individual manufacturing and exporting the products requested to be applied with anti-dumping measures with the Vietnamese investigating authority or with domestic producers when so approved by the investigating authority.

向越南调查机关或经调查机关批准的国内生产商承诺采取措施，消除被要求采取反倾销措施的组织或个别制造和出口产品所存在的倾销。

# Article 78. Conditions for application of anti-dumping measures

# 第78条 实施反倾销措施的条件

1. Anti-dumping measures shall be applied to imports when the following conditions are fully met:

反倾销措施适用于完全符合下列条件的进口产品:

* 1. Imports into Viet Nam are dumped with a specified dumping margin, except the case referred to in Clause 2 of this Article;

进入越南的进口产品具有具体的倾销幅度，但本条第2款所述情况除外;

* 1. A domestic industry suffers material injury or is threatened to suffer material injury or its formation is impeded;

国内产业遭受实质性损害、实质性损害的威胁，或者国内产业的形成受到阻碍;

* 1. There exists a causal relationship between the import of dumped products prescribed in Point a of this Clause and the injury caused to a domestic industry referred to in Point b of this Clause.

本条第a点所述倾销产品的进口与本条第b点所述的国内产业的损害之间存在因果关系。

1. No anti-dumping measures shall be applied to imports with a dumping margin not exceeding 2% of their export prices to Viet Nam.

反倾销措施不得适用于对越南出口倾销幅度不超过2%的进口产品。

1. **If the volume or quantity of imports originating from a country does not exceed 3% of the total volume or quantity of similar imports into Viet Nam and the aggregate volume or quantity of products originating from countries that satisfy the above condition does not exceed 7% of the total volume or quantity of similar imports into Viet Nam, these countries will be excluded from the scope of application of anti-dumping measures.**

如果来自一国的进口总量或数量不超过越南同类进口总量或数量的3%，而且符合上述条件的若干国家的产品总量或数量不超过越南同类进口总量或数量的7%，那么这些国家将被排除在反倾销措施的适用范围之外。

# Article 79. Grounds for initiating investigations for application of anti-dumping measures

# 第79条 启动反倾销调查的依据

1. An investigation for application of anti-dumping measures shall be initiated when organisations or individuals representing a domestic industry submit a dossier of request for application of these measures.

代表国内产业的组织或者个人可通过提交实施反倾销措施的申请材料发起反倾销措施调查。

1. Organisations or individuals that submit a dossier of request for application of anti-dumping measures shall be regarded as representing a domestic industry when all the following conditions are fully met:

提交反倾销调查申请材料的组织或者个人，在完全符合下列条件时，应被认定为代表国内产业:

* 1. The total volume or quantity of like products manufactured by the domestic producers that submit the dossier and domestic producers that support the request for application of anti-dumping measures is larger than the total volume or quantity of like products manufactured by the domestic producers that oppose such request;

提交申请材料的国内生产者和支持申请实施反倾销措施的国内生产商生产的同类产品的总量或者数量，大于反对申请的国内生产商生产的同类产品的总量或者数量;

* 1. The total volume or quantity of like products manufactured by the domestic producers that submit the dossier and domestic producers that support the request for application of anti-dumping measures accounts for at least 25% of the total volume or quantity of like products manufactured by the domestic industry concerned.

提交申请材料的国内生产商和支持申请实施反倾销措施的国内生产商生产的同类产品的总量或者数量，至少占国内有关行业生产的同类产品总量或者数量的25%。

1. The Minister of Industry and Trade shall decide to initiate an investigation when having conspicuous evidence that the import of dumped products causes material injury or threatens to cause material injury to a domestic industry or impedes the formation of a domestic industry.

工贸部部长在有明显证据表明倾销产品的进口造成实质性损害或损害威胁或阻碍国内产业的建立时，应决定立案调查。

# Article 80. Contents of investigation for application of anti-dumping measures

# 第80条 反倾销调查内容

1. Determination of dumped imports into Viet Nam and dumping margin covers:

越南进口倾销产品范围的确定和倾销幅度确定:

* 1. Determination of normal values;

正常价值的确定;

* 1. Determination of export prices;

出口价格的确定;

* 1. Fair comparison between normal values and export prices and determination of the specific dumping margin of the to-be-investigated products for every organisation or individual manufacturing and exporting these products (hereinafter referred to as producer/exporter).

正常价值与出口价格的公平比较及待调查产品对制造和出口这些产品的每个组织或个人(以下简称生产者/出口者)的具体倾销幅度的确定。

1. Identification of material injury or threat of causing material injury to a domestic industry or identification of the impediment to the formation of a domestic industry.

确认对国内产业造成实质性损害或实质性损害的威胁，或查明阻碍国内产业建立的因素。

1. Determination of the causal relationship between the import of the dumped products and material injury or threat of causing material injury to a domestic industry or the impediment to the formation of a domestic industry.

确定倾销进口产品与国内产业受到实质性损害、实质性损害威胁或阻碍国内产业建立之间存在因果关系。

1. Identification of socio-economic impacts of anti-dumping measures.

确认反倾销措施的社会经济影响。

# Article 81. Application of anti-dumping measures

# 第81条 反倾销措施的适用

1. The application of provisional anti-dumping duties shall be decided by the Minister of Industry and Trade based on the preliminary determination of the investigating authority. Provisional anti- dumping duty rates must not exceed the dumping margin stated in the preliminary determination.

工贸部部长可依据调查机关的初裁，决定采取临时反倾销税。临时反倾销税率不得超过初裁裁决的倾销幅度。

The time limit for imposition of provisional anti-dumping duties is 120 days from the effective date of the decision on imposition of provisional anti-dumping duties. At the request of exporters of like products into Viet Nam, the Minister of Industry and Trade may extend this time limit for not more than 60 days.

临时反倾销税的征收期限为自征收临时反倾销税的决定生效之日起120天。根据向越南出口同类产品的出口商的请求，工贸部部长可将这一期限延长，最多不得超过60天。

1. The application of commitment measures is prescribed as follows:

承诺措施的适用规定如下:

* 1. After the preliminary determination is made and before the investigation finishes, the producer/exporter of the investigated products may make a commitment with the investigating authority that he/she/it will voluntarily adjust the selling prices or limit the volume or quantity of the investigated products exported to Viet Nam;

在初裁之后和调查结束之前，被调查产品的生产商/出口商可向调查机关作出承诺，自愿调整销售价格或限制被调查产品出口到越南的数量;

* 1. The investigating authority may accept or reject the commitment or request adjustment of the commitment after consulting organisations or individuals representing the domestic industry concerned.

调查机关在征求有关国内行业的组织或个人的意见后，可以接受或拒绝承诺或要求调整承诺。

1. The imposition of anti-dumping duties is prescribed as follows:

征收反倾销税的规定如下:

* 1. If no commitment is made under Clause 2 of this Article, after finishing the investigation, the investigating authority shall announce its final determination on the investigation contents specified in Article 80 of this Law. The investigating authority's final determination and major grounds for making such determination shall be notified via an appropriate means to interested parties in the investigation case;

本条第二款未作出承诺的，调查机关调查结束后，应当公布对本法第80条规定的调查内容的最终裁决。应通过适当手段将调查机关的终裁决定和作出这种决定的主要理由通知调查案件的利害关系方;

* 1. Based on the investigating authority's final determination, the Minister of Industry and Trade shall issue a decision to impose or not to impose anti-dumping duties;

根据调查机关的最终裁决，工贸部部长应当作出是否征收反倾销税的决定;

* 1. Anti-dumping duty rates must not exceed the dumping margin stated in the final determination;

反倾销税不得超过终裁决定所确定的倾销幅度;

* 1. The time limit for imposition of anti-dumping duties is 5 years from the effective date of the decision on imposition of anti-dumping duties, except the case of extension specified in Clause 2, Article 82 of this Law.

反倾销税的征收期限为自反倾销税决定生效之日起5年，但本法第82条第2款规定的延长期限除外。

1. The imposition of retrospective anti-dumping duties is prescribed as follows:

追溯性反倾销税的征收规定如下:

* 1. In the case the investigating authority's final determination affirms that there is material injury or a threat of causing material injury to a domestic industry, the Minister of Industry and Trade may decide to impose retrospective anti-dumping duties;

如果调查机关的最终裁决确认存在对国内产业造成实质性损害或实质性损害的威胁，工贸部部长可决定征收追溯性反倾销税;

* 1. Retrospective anti-dumping duties shall be imposed on products imported within 90 days before the imposition of provisional antidumping duties if the imports are concluded as being dumped; the volume or quantity of dumped imports into Viet Nam sees an unusual increase in the period from the time of commencement of the investigation to the time of imposition of provisional anti-dumping duties, causing hardly remediable injury to a domestic industry.

如果进口产品被认定倾销，并且在调查开始至征收临时反倾销税期间越南倾销进口产品的数量或数量出现异常增长，对国内产业造成难以补救的损害，那么应在临时反倾销税实施前90天内对进口产品征收追溯性反倾销税。

# Article 82. Review of the application of anti-dumping measures

# 第82条 对实施反倾销措施的复审

1. A review at the request of interested parties in an investigation case is prescribed as follows:

应调查利害关系方的请求进行复审的规定如下:

* 1. After 1 year from the date of issuance of a decision on application of anti-dumping measures, the Minister of Industry and Trade may decide to review the application of these measures at the request of one or more than one interested party in the investigated case and after considering the evidence provided by the requester;

在关于实施反倾销措施的决定发布之日起一年后，工贸部部长可应调查案件的一个或多个利害关系方的请求，并在考虑请求方提供的证据之后，决定复审这些措施的实施情况;

* 1. The performance of review-related procedures must not impede the application of anti-dumping measures currently in force;

与复审有关的程序不得妨碍实施现行的反倾销措施的执行;

* 1. The time limit for a review prescribed in this Clause is 6 months from the date of issuance of the review decision and, when necessary, may be extended once for not more than 3 months.

本条规定的复审期限为自复审决定发布之日起6个月，必要时可延长一次，但不得超过3个月。

1. Sunset review is prescribed as follows:

日落复审的规定如下:

* 1. One year before the expiration of the time limit for application of anti-dumping measures, the Minister of Industry and Trade shall issue a decision to conduct sunset review of such application;

在实施反倾销措施的期限届满前一年，工贸部部长应作出决定，对实施反倾销措施的申请进行日落复审;

* 1. The review aims to assess the necessity, reasonability and socio-economic impacts of the continued application of anti-dumping measures;

审查的目的是评估继续实施反倾销措施的必要性、合理性和社会经济影响;

* 1. Based on the investigating authority's review result, the Minister of Industry and Trade shall issue a decision to extend or not to extend the time limit for application of anti-dumping measures;

根据调查机关的复审结果，由工贸部部长作出延长或者不延长反倾销措施适用期限的决定;

* 1. The time limit for sunset review is 09 months from the date of issuance of the review decision and, when necessary, may be extended once for not more than 3 months.

日落复审的时限为自复审决定发布之日起9个月，必要时可延长一次，但不得超过3个月。

1. Review for foreign producers/exporters that export products under investigation to the Vietnamese territory after the initial phase of investigation (hereinafter referred to as new exporters) is prescribed as follows:

对于原审结束之后，向越南境内出口被调查产品的外国生产商/出口商(以下简称新出口商)的复审，规定如下:

* 1. A new exporter may submit a dossier requesting the investigation body to conduct a review and determine a separate anti-dumping duty rate;

新出口商可以提交申请，要求调查机关进行审查，并确定一个单独的反倾销税率;

* 1. Based on the investigating authority's review result, the Minister of Industry and Trade shall issue a decision to apply a separate antidumping duty rate to the reviewed new exporter;

根据调查机关的复审结果，工贸部部长应作出决定，对被审查的新出口商适用单独反倾销税率;

* 1. The time limit for review for a new exporter is 3 months from the date of issuance of the review decision and, when necessary, may be extended once for not more than 3 months.

新出口商的复审期限为自复审决定发出之日起3个月，必要时可延长一次，但不得超过3个月。

1. Review of the range of products subject to anti-dumping measures is prescribed as follows:

对于被实施反倾销措施的产品范围的复审，规定如下:

* 1. Interested parties in an investigation case may request the investigating authority to review the range of products subject to anti-dumping measures;

调查案件的利害关系方可以请求调查机关对受制于反倾销措施的产品范围进行复审;

* 1. A dossier of request for review must include evidence and information proving that the application of anti-dumping measures to all the products is inappropriate;

复审申请材料必须包括相关证据和资料，证明对所有产品适用反倾销措施是不当的;

* 1. Based on the investigating authority's review conclusion, the Minister of Industry and Trade shall decide to adjust the range of products subject to anti-dumping measures;

根据调查机关的复审结论，由工贸部决定调整反倾销措施适用的产品范围;

* 1. The time limit for review of the range of products subject to antidumping measures is 06 months from the date of issuance of the review decision and, when necessary, may be extended once for not more than 03 months.

适用反倾销措施的产品范围的复审期限为6个月，自复审决定发布之日起计算，必要时可以延长一次，但不得超过3个月。

# Section 3

# 第三部分

**COUNTERVAILING AGAINST IMPORTS INTO VIET NAM**

对越南进口产品的反补贴措施

**Article 83. Countervailing measures**

第83条 反补贴措施

1. Countervailing measures against imports into Viet Nam (hereinafter referred to as countervailing measures) are measures which are applied in the case subsidised imports into Viet Nam cause material injury or threaten to cause material injury to a domestic industry or impede the formation of a domestic industry.

针对越南进口的反补贴措施(以下简称反补贴措施)是指对越南进口的补贴产品对越南国内产业造成实质性损害或损害威胁或阻碍国内产业建立的情况下适用的措施。

1. Countervailing measures include:

反补贴措施包括:

* 1. Imposition of countervailing duties;

反贴补税的征收;

* 1. Commitment made by an organisation or individual or the government of the manufacturing/exporting country with a competent Vietnamese state agency on voluntary termination of subsidies, reduction of subsidy levels, or commitment to adjust export prices;

生产/出口国的组织或个人或政府与越南主管国家机构就自愿终止补贴、削减补贴水平或调整出口价格作出的承诺;

* 1. Other countervailing measures.

其他反补贴措施。

# Article 84. Subsidies

# 第84条 补贴

Subsidy means a contribution made in the following forms by the government or any public organisation of the country having imports into Viet Nam which brings benefits to the subsidy- receiving organisation or individual:

补贴是指进口到越南的国家的政府或任何公共组织作出的以下列形式的资助，为接受补贴的组织或个人带来利益:

1. The Government actually transfers funds directly to the organisation or individual or directly undertakes indebtedness for the latter;

政府实际上直接向组织或个人转移资金，或直接为后者承担债务;

1. The Government ignores or does not collect the amounts which the organisation or individual is obliged to pay to the Government;

政府免除或不收取有关组织或个人须向政府缴付的款项;

1. The Government provides the organisation or individual with assets, products or services other than common infrastructure facilities;

政府向有关机构或个人提供公共基建设施以外的资产、产品或服务;

1. The Government purchases assets, products or services from the organisation or individual at prices higher than market prices;

政府以高于市场价格的价格向机构或个人购买资产、产品或服务;

1. The Government sells assets, products or services to the organisation or individual at prices lower than market prices;

政府以低于市场的价格向机构或个人出售资产、产品或服务;

1. The Government contributes funds to a financing facility; entrusts, assigns or directs and requests a private organisation to perform one or more than one activity specified in Clauses 1 through 5 of this Article which normally belongs to its functions and is actually not different from its routine activities;

政府向融资机关提供资金；委托、分配或指示并要求私营机构从事本条第1至5款所指明的一项或多项活动，这些活动通常属于其职能范围，实际上与其日常活动没有什么不同;

1. Any form of support in terms of income or price;

收入或价格方面的任何形式的支持;

1. Any other form of subsidy other than those referred to in Clauses 1 through 7 of this Article, which has been determined on the principles of fairness, reasonability, and non-violation of treaties to which the Socialist Republic of Viet Nam is a contracting party.

本条第1至7款所述补贴以外的任何其他补贴形式，这些补贴是根据公平、合理和不违反越南社会主义共和国为缔约国的条约的原则确定的。

# Article 85. Subsidies likely to be subject to countervailing measures

# 第85条.可能适用反补贴措施的补贴

The following subsidies are likely to be subject to countervailing measures, unless otherwise provided by treaties to which the Socialist Republic of Viet Nam is a contracting party:

除越南社会主义共和国为缔约国的条约另有规定外，下列补贴可能受到反补贴措施的制约:

1. Subsidies based on export results;

基于出口结果的补贴;

1. Subsidies aiming to prioritise the use of home-made products over imports;

鼓励优先使用国产产品而不是进口产品的补贴;

1. Subsidies referred to in Article 84 of this Law which nullify or affect the interests which Viet Nam is directly or indirectly entitled to under treaties to which the Socialist Republic of Viet Nam is a contracting party.

本法第84条所述补贴，使越南根据越南社会主义共和国为缔约国的条约直接或间接享有的利益全然无效或受到影响。

# Article 86. Conditions for application of countervailing measures

# 第86条.适用反补贴措施的条件

1. Countervailing measures shall be applied to imports when all the following conditions are fully satisfied:

应当在完全符合下列条件时，对进口采取反补贴措施:

* 1. The products are identified as being subsidised under Articles 84 and 85 of this Law with specific subsidy levels, except the case specified in Clause 2 of this Article;

根据本法第84条和第85条规定，确定产品受到特定程度的补贴，但本条第二款规定的情况除外;

* 1. A domestic industry suffers material injury or is threatened to suffer material injury or its formation is impeded;

国内产业遭受实质性损害或实质性损害威胁，或者对国内产业的建立造成阻碍;

* 1. There exists a causal relationship between the import of subsidised products specified in Point a of this Clause and the injury caused to a domestic industry referred to in Point b of this Clause.

本条a款所指的受到补贴的进口产品与本条b款所指的对国内产业造成的损害之间存在因果关系。

1. Countervailing measures shall not be applied to producers/exporters in developed countries that have a subsidy not exceeding 1% of the price of exports to Viet Nam, producers/exporters in developing countries that have a subsidy not exceeding 2% of the price of exports to Viet Nam, and producers/exporters in underdeveloped countries that have a subsidy not exceeding 3% of the price of exports to Viet Nam.

反补贴措施不应适用于补贴额不超过对越南出口价格1%的发达国家生产商/出口商、补贴额不超过对越南出口价格2%的发展中国家生产商/出口商以及补贴额不超过对越南出口价格3%的不发达国家生产商/出口商。

1. In the case the volume or quantity of imports originating from a developing country does not exceed 4% of the total volume or quantity of similar imports into Viet Nam and the aggregate volume or quantity of products originating from developing countries that satisfy the above condition does not exceed 9% of the total volume or quantity of similar imports into Viet Nam, these countries will be excluded from the scope of application of countervailing measures.

如果来自发展中国家的进口数量不超过进入越南的同类进口总量或数量的4%，而来自符合上述条件的若干发展中国家的产品总量或数量不超过进入越南的同类进口总量或数量的9%，这些国家将被排除在反补贴措施的适用范围之外。

# Article 87. Grounds for initiating investigations for application of countervailing measures

# 第87条.反补贴调查的立案理由

1. An investigation for application of countervailing measures shall be initiated when organisations or individuals representing a domestic industry submits a dossier of request for application of these measures.

代表国内产业的组织或个人提交实施反补贴措施的申请材料时，应当启动反补贴调查。

1. Organisations or individuals that submit a dossier of request for application of countervailing measures shall be regarded as representing a domestic industry when all the following conditions are fully satisfied:

申请反补贴措施的组织或个人，在完全符合下列所有条件时，应被视为代表国内产业:

* 1. The total volume or quantity of like products of the domestic producers that submit the dossier and domestic producers that support the request for application of countervailing measures is larger than the total volume or quantity of like products of the domestic producers that oppose such request;

提交申请的国内生产者和支持申请实施反补贴措施的国内生产者的同类产品的总量或数量大于反对申请的国内生产者的同类产品的总量或数量;

* 1. The total volume or quantity of like products of the domestic producers that submit the dossier and domestic producers that support the request for application of countervailing measures accounts for at least 25% of the total volume or quantity of like products manufactured by the domestic industry concerned.

提交申请的国内生产商和支持申请实施反补贴措施的国内生产商的同类产品的总量或数量至少占国内有关行业生产的同类产品总量或数量的25%。

1. The Minister of Industry and Trade shall decide to initiate an investigation when having conspicuous evidence that the import of subsidised products causes material injury or threatens to cause material injury to a domestic industry or impedes the formation of a domestic industry.

如果有明显证据表明，受补贴的进口产品可能对国内产业造成实质性损害或损害威胁，或者妨碍国内产业的形成，工贸部部长应决定启动调查。

# Article 88. Contents of investigation for application of countervailing measures

# 第88条 适用反补贴措施的调查内容

1. Determination of subsidised imports into Viet Nam and subsidy levels covers:

确定进入越南的补贴进口和补贴水平包括:

* 1. Determination of the value of subsidies;

确定补贴的价值;

* 1. Determination of export prices;

确定出口价格;

* 1. Determination of specific subsidy levels for each foreign producer/exporter.

确定每个外国生产商/出口商的具体补贴水平。

1. Identification of material injury or the threat of material injury to a domestic industry or identification of the impediment to the formation of a domestic industry covers:

查明对国内产业造成的实质性损害或实质性损害的威胁，或查明阻碍国内产业形成的因素，包括:

* 1. Determination of the volume or quantity of subsidised imports and their impacts on the prices of like products in the domestic market;

确定获得补贴的进口产品的数量及其对国内市场同类产品价格的影响;

* 1. Identification of impacts of subsidised imports on a domestic industry.

确定补贴的进口产品对国内产业的影响。

1. Determination of the causal relationship between the import of subsidised products and the material injury or threat of material injury to a domestic industry or impediment to the formation of a domestic industry.

确定受到补贴的进口产品与对国内产业遭受到的实质性损害或实质性损害的威胁，或对国内产业形成的阻碍之间，存在因果关系。

1. Identification of socio-economic impacts of countervailing measures.

确定反补贴措施的社会经济影响。

# Article 89. Application of countervailing measures

# 第89条.反补贴措施的适用

1. The imposition of provisional countervailing duties shall be decided by the Minister of Industry and Trade based on the preliminary determination of the investigating authority. Provisional countervailing duty rates must not exceed the subsidy levels stated in the preliminary determination.

临时反贴补税的实施应由工贸部部长根据调查机关的初裁决定。临时反补贴税率不得超过初裁中规定的补贴水平。

The time limit for imposition of provisional countervailing duties is 120 days from the effective date of the decision on imposition of provisional countervailing duties. The Minister of Industry and Trade may extend such time limit for not more than 60 days.

临时反贴补税的征收期限为120天，自征收临时反贴补税决定生效之日起算。工贸部部长可将这一期限延长，但延长期限不得超过60天。

1. The application of commitment measures is prescribed as follows:

承诺措施的适用规定如下:

* 1. After the preliminary determination is made and before the investigation finishes, the producer/exporter of investigated products or the government of the subsidy-providing country may make a commitment with the investigating authority that he/she/it will voluntarily terminate the provision of subsidies, reduce subsidy levels, adjust export prices or apply other appropriate measures;

初步裁定后，在调查结束前，被调查产品的生产商/出口商或提供补贴国政府可向调查机关承诺自愿终止补贴、降低补贴水平、调整出口价格或采取其他适当措施;

* 1. The investigating authority may accept or reject the commitment or request adjustment of the commitment after consulting organisations or individuals representing the domestic industry concerned.

调查机关在征求有关国内行业的组织或个人的意见后，可以接受或拒绝承诺或要求调整承诺。

1. The imposition of countervailing duties is prescribed as follows:

征收反贴补税的规定如下:

* 1. If no commitment is made under Clause 2 of this Article, after finishing the investigation, the investigating authority shall announce its final determination on the investigation contents specified in Article 80 of this Law. The investigating authority's final determination and major grounds for making such conclusion shall be notified via an appropriate means to interested parties;

本条第2款未作出承诺的，调查机关调查完毕后，应当公布对本法第80条规定的调查内容的终裁决定。调查机关的终裁决定和得出这种结论的主要理由应通过适当手段告知利害关系方;

* 1. Based on the investigating authority's final determination, the Minister of Industry and Trade shall issue a decision to impose or not to impose countervailing duties;

根据调查机关的终裁决定，工贸部部长应作出是否征收反贴补税的决定;

* 1. Countervailing duty rates must not exceed the subsidy levels stated in the final determination;

反补贴税率不得超过终裁决定规定的补贴水平;

* 1. The time limit for imposition of countervailing duties is 5 years from the effective date of the decision on imposition of countervailing duties, except the case of extension specified in Clause 2, Article 90 of this Law.

反贴补税的征收期限为5年，自征收反贴补税的决定生效之日起算，但本法第90条第2款规定的延期除外。

1. The imposition of retrospective countervailing duties is prescribed as follows:

实施追溯反贴补税的规定如下:

* 1. In the case the investigating authority's final determination identifies material injury or a threat of material injury to a domestic industry, the Minister of Industry and Trade may decide to impose retrospective countervailing duties;

如果调查机关的终裁认定国内产业遭受了实质性损害或实质性损害威胁，工贸部部长可以决定实行追溯反贴补税;

* 1. Retrospective countervailing duties shall be imposed on products imported within 90 days before the imposition of provisional countervailing duties if these products are concluded as being subsidised; the volume or quantity of subsidised imports into Viet Nam sees an unusual increase in the period from the time of commencement of the investigation to the time of imposition of provisional countervailing duties, causing hardly remediable injury to a domestic industry.

如果产品被认定为补贴产品，并且从开始调查到实施临时反贴补税期间，进入越南的补贴进口产品的数量出现异常增长，对国内产业造成难以补救的损害，则应在实施临时反贴补税之前90天内对进口产品实施追溯性反贴补税。

1. The application of other countervailing measures must comply with treaties to which the Socialist Republic of Viet Nam is a contracting party or principles of international law.

其他反补贴措施的适用必须遵守越南社会主义共和国缔结的条约或国际法原则。

# Article 90. Review of the application of countervailing measures

# 第90条.反补贴措施的复审

1. The review at the request of interested parties in an investigation case is prescribed as follows:

根据调查案件有关各方的要求进行复审的规定如下:

* 1. After 01 year from the date of issuance of a decision on application of countervailing measures, the Minister of Industry and Trade may decide to review the application of these measures at the request of one or more than one interested party in the investigation case and after considering the evidence provided by the requester;

在关于适用反补贴措施的决定发布之日起1年后，工贸部部长可应调查案件中一个或多个利害关系方的请求，并在考虑申请方提供的证据之后，决定审查这些措施的适用情况;

* 1. The performance of review-related procedures must not impede the application of countervailing measures currently in force;

与复审有关的程序不得妨碍现行反补贴措施的执行;

* 1. The time limit for a review prescribed in this Clause is 6 months from the date of issuance of the review decision and, when necessary, may be extended once for not more than 3 months.

本条规定的复审期限为6个月，自复审决定发布之日起算，必要时可延长一次，但不得超过3个月。

1. Sunset review is prescribed as follows:

日落复审的规定如下:

* 1. One year before the expiration of the time limit for application of countervailing measures, the Minister of Industry and Trade shall issue a decision to conduct sunset review of such application;

在适用反补贴措施的期限届满前一年，工贸部部长应作出日落复审的决定;

* 1. The review aims to assess the necessity, reasonability and socio-economic impacts of the continued application of countervailing measures;

审查的目的是评估继续适用反补贴措施的必要性、合理性和社会经济影响;

* 1. Based on the investigating authority's review result, the Minister of Industry and Trade shall issue a decision to extend or not to extend the time limit for application of countervailing measures;

根据调查机关的审查结果，工贸部部长应作出延长或不延长反补贴措施适用期限的决定;

* 1. The time limit for sunset review is 9 months from the date of issuance of the review decision and, when necessary, may be extended once for not more than 3 months.

日落复审的时限为自审查决定发布之日起9个月，必要时可延长一次，但不得超过3个月。

1. Review for new exporters is prescribed as follows:

新出口商复审的规定如下:

* 1. A new exporter may submit a dossier requesting the investigation body to conduct a review and determine a separate countervailing duty rate;

新出口商可提交申请材料，要求调查机关进行审查并确定单独的反补贴税率;

* 1. Based on the investigating authority's review result, the Minister of Industry and Trade shall issue a decision to apply a separate countervailing duty rate to the reviewed new exporter;

根据调查机关的审查结果，工贸部部长应作出决定，对被审查的新出口商适用单独反补贴税率;

* 1. The time limit for a review for the new exporter is 03 months from the date of issuance of the review decision and, when necessary, may be extended once for not more than 3 months.

对新出口商的审查期限为自审查决定发布之日起3个月，必要时可延长一次，但不得超过3个月。

1. Review of the range of products subject to countervailing measures is prescribed as follows:

对于受反补贴措施制约的产品范围的审查，规定如下:

* 1. Interested parties in an investigation case may request the investigating authority to review the range of products subject to countervailing measures;

调查案件的利害关系方可以请求调查机关审查受反补贴措施制约的产品范围;

* 1. A dossier of request for review must include evidence and information proving that the application of countervailing measures to all the products is inappropriate;

复审的申请材料必须包括证据和资料，证明对所有产品适用反补贴措施是不当的;

* 1. Based on the investigating authority's review conclusion, the Minister of Industry and Trade shall decide to adjust the range of products subject to countervailing measures;

根据调查机关的审查结论，由工贸部决定调整受反补贴措施限制的产品范围;

* 1. The time limit for a review of the range of products subject to countervailing measures is 06 months from the date of issuance of the review decision and, when necessary, may be extended once for not more than 03 months.

对被采取反补贴措施的产品范围进行审查的时限为6个月，自发布审查决定之日起算。必要时可延长一次，但不得超过3个月。

1. Changed-circumstance review is prescribed as follows:

对于情势变更的复审，规定如下：

* 1. At any time after the official countervailing duties take effect, if one or more than one interested party in an investigation case sees a new circumstance causing a material change in the subsidy levels for products subject to official countervailing duties, leading to no subsidies or negligible subsidies, or no longer causing material injury or a threat of material injury to a domestic industry, or no longer causing an impediment to the formation of a domestic industry, such party may request the investigating authority to conduct a changed- circumstance review;

在正式反贴补税生效之后的任何时候，如果调查案件中的一个或多个利害关系方发现新情况导致受正式反贴补税管制的产品的补贴水平发生重大变化，导致没有补贴或微量补贴，或不再对国内产业造成实质性损害或实质性损害的威胁，或不再阻碍国内产业的形成，该利害关系方可要求调查机关进行情势变更复审

* 1. A dossier of request for review must include evidence and information proving that the application of countervailing measures is no longer appropriate as a result of a changed circumstance;

复审申请的档案必须包括证据和资料，证明由于情况发生变化，反补贴措施已不再适用;

* 1. Based on the investigating authority's review conclusion, the Minister of Industry and Trade shall decide to adjust or terminate countervailing measures;

根据调查机关的审查结论，由工贸部决定调整或者终止反补贴措施;

* 1. The time limit for a changed-circumstance review is 9 months from the date of issuance of the review decision and, when necessary, may be extended once for not more than 3 months.

情势变更审查的期限为审查决定发布之日起9个月，必要时可延长一次，但不得超过3个月。

# Section 4

# 第四部分

**SAFEGUARDS IN THE IMPORT OF FOREIGN PRODUCTS INTO VIET NAM**

越南对外国进口产品的保障措施

**Article 91. Safeguard measures**

第91条 保障措施

1. Safeguard measures in the import of foreign products into Viet Nam (hereinafter referred to as safeguard measures) are measures which are applied against products that are excessively imported into Viet Nam, causing serious injury or threatening to cause serious injury to a domestic industry.

越南对外国进口产品的保障措施(以下简称保障措施)是对过多地进口到越南、造成严重损害或有可能对国内产业造成严重损害的产品适用的措施。

1. Safeguard measures include:

保障措施包括:

* 1. Imposition of safeguard duties;

征收保障关税;

* 1. Application of import quotas;

进口配额的适用;

* 1. Application of tariff quotas;

关税配额的应用;

* 1. Grant of import permits;

进口许可;

dd) Other safeguard measures.

其他保障措施。

# Article 92. Conditions for application of safeguard measures

# 第92条 保障措施的适用条件

1. Safeguard measures may only be applied to imports when all the following conditions are fully satisfied:

只有在完全符合下列所有条件的情况下，才可对进口实行保障措施:

* 1. The products are excessively imported with their volume or quantity seeing an absolute or relative increase over the volume or quantity of like products manufactured domestically;

进口产品的数量过多，与国产生产制造同类产品数量或者数量相比出现绝对或者相对增长;

* 1. A domestic industry suffers serious injury or a threat of serious injury;

国内产业受到严重损害或者可能受到严重损害;

* 1. The increase in the volume or quantity of imports referred to in Point a of this Clause is the main cause of the serious injury or threat of serious injury to a domestic industry.

本条a款所指的进口数量或数量的增加是国内产业遭受严重损害或严重损害威胁的主要原因。

1. In the case the volume or quantity of imports originating from a developing country does not exceed 3% of the total volume or quantity of like products imported into Viet Nam and the aggregate volume or quantity of products originating from developing countries that satisfy the above condition does not exceed 9% of the total volume or quantity of like products imported into Viet Nam, these countries will be excluded from the scope of application of safeguard measures.

如果来自发展中国家的进口数量不超过进口到越南的同类产品总量或数量的3%，而来自满足上述条件的发展中国家的产品总量或数量不超过进口到越南的同类产品总量或数量的9%，这些国家将被排除在保障措施的适用范围之外。

# Article 93. Grounds for initiating investigations for application of safeguard measures

# 第93条.为实施保障措施而启动调查的理由

1. An investigation for application of safeguard measures shall be initiated when domestic producers of like products or directly competitive products which can possibly accepted by buyers to replace products subject to safeguard measures for their price advantages and use purpose submit a dossier of request for application of these measures.

当同类产品或直接竞争产品的国内生产商申请采取保障措施，而买方认为国内市场的前述产品可以替换因价格优势而受保障措施约束的外国产品时，应当启动保障措施的调查。

1. The dossier contains clear evidence that the products excessively imported into Viet Nam cause serious injury or threaten to cause serious injury to a domestic industry.

该申请载有明确的证据，表明越南过度进口的产品对国内产业造成严重损害威胁，或可能对国内产业造成严重损害。

1. The Minister of Industry and Trade shall decide to initiate an investigation when having clear evidence that the products excessively imported into Viet Nam cause serious injury or threaten to cause serious injury to a domestic industry.

在有明确证据表明过度进口到越南的产品对国内产业造成严重损害或可能造成严重损害威胁时，工贸部部长应当决定启动调查。

# Article 94. Contents of investigation for application of safeguard measures

# 第94条 保障措施调查的内容

1. Determination of products excessively imported into Viet Nam and increase levels of imports.

认定越南的进口产品激增，并且进口水平增加。

1. Identification of serious injury or the threat of serious injury to a domestic industry.

对国内产业造成严重损害或严重损害威胁的认定。

1. Determination of the causal relationship between the excessive import of products as prescribed in Clause 1 of this Article and the injury to a domestic industry as prescribed in Clause 2 of this Article.

确定本条第1款规定的进口产品过多与本条第2款规定的国内产业损害之间存在因果关系。

# Article 95. Application of safeguard measures

# 第95条 保障措施的适用

1. The imposition of provisional safeguard measures shall be decided by the Minister of Industry and Trade based on the preliminary determination of the investigating authority before finishing the investigation, if it is deemed that delayed implementation of safeguard measures might cause serious injury or threaten to cause serious injury to a domestic industry and such injury is hardly remediable.

如果认为延迟执行保障措施可能对国内产业造成严重损害或可能造成严重损害威胁，而且这种损害几乎无法补救，则应由工贸部部长根据调查机关在调查结束前作出的初步裁定决定实施临时保障措施。

The time limit for application of provisional safeguard measures is 200 days from the effective date of the decision on application of provisional safeguard measures.

实施临时保障措施的期限为200天，自实施临时保障措施的决定生效之日起算。

1. The application of official safeguard measures is prescribed as follows:

正式保障措施的适用规定如下:

* 1. After finishing the investigation, the investigating authority shall announce its final determination on the investigation contents prescribed in Article 94 of this Law. The investigating authority's final determination and major grounds for making such conclusion shall be notified via an appropriate means to interested parties;

调查结束后，调查机关应当公布本法第94条规定的调查内容的终裁决定。应通过适当手段将调查机关的终裁决定和作出这种结论的主要理由通知利害关系方;

* 1. Based on the investigating authority's final determination, the Minister of Industry and Trade shall issue a decision to apply or not to apply official safeguard measures;

根据调查机关的终裁决定，工贸部部长应作出采取或不采取正式保障措施的决定;

* 1. The time limit for application of safeguard measures, including the period of application of provisional safeguard measures, is 4 years, except the case of extension specified in Clause 2, Article 96 of this Law;

实施保障措施的期限为4年，包括临时保障措施的实施期限，但本法第96条第2款规定的延长除外;

* 1. The total period for application of safeguard measures, including the period of application of provisional safeguard measures and official safeguard measures and extended period, is 10 years.

实施保障措施的总期限为10年，包括临时保障措施和正式保障措施的实施期限和延长期限。

# Article 96. Review of the application of safeguard measures

# 第96条保障措施的适用情况的复审

1. Interim review is prescribed as follows:

期中复审的规定如下：

* 1. In the case the time limit for application of safeguard measures exceeds 3 years, the investigating authority shall review safeguard measures before the expiration of half of this time limit for making a conclusion on the continuation, termination or reduction of safeguard measures;

实施保障措施的期限超过3年的，调查机关应当在期限的一半届满之前对保障措施进行复审，以便做出继续、终止或者减轻保障措施的结论。

* 1. Based on the investigating authority's review result, the Minister of Industry and Trade shall issue a decision on the continuation, termination or reduction of safeguard measures;

根据调查机关的审查结果，由工贸部部长作出保障措施的继续、终止或减轻的决定;

* 1. The time limit for an interim review of the application of safeguard measures is 6 months from the date of issuance of the review decision and, when necessary, may be extended once for not more than 3 months.

对保障措施的实施情况进行期中审查的时限为6个月，自发布审查决定之日起算。必要时可延长一次，但不得超过3个月。

1. Sunset review is prescribed as follows:

日落复审的规定如下:

* 1. Before the expiration of the time limit for application of safeguard measures, domestic producers of like products or directly competitive products that wish to have this time limit extended shall submit a dossier of request for extension of the time limit for application of safeguard measures. Such dossier must contain evidence showing that the domestic industry concerned has taken necessary adjustment measures to raise the competitiveness and that the termination of safeguard measures might cause serious injury or threaten to cause serious injury to the domestic industry concerned;

保障措施期限届满之前，希望延长期限的同类产品或者直接竞争产品的国内生产者，应当提交延长保障措施期限的申请书。此类文件必须包含证据，表明有关国内产业已采取必要的调整措施以提高竞争力；保障措施的终止可能对有关国内产业造成严重损害或可能造成严重损害威胁;

* 1. The investigating authority may conduct sunset review either at the request for extension of the time limit for application of safeguard measures prescribed in Point a of this Clause or on its own discretion;

调查机关可根据本条a款规定的保障措施实施期限的延长请求或自行酌定进行日落复审;

* 1. Based on the investigating authority's review result, the Minister of Industry and Trade shall issue a decision to terminate, or extend the time limit for, application of safeguard measures;

工贸部部长应当根据调查机关的审查结果，作出终止或者延长保障措施适用期限的决定;

* 1. The extent of application of safeguard measures in the extended period must not be higher than that during the previous time limit for application of safeguard measures;

适用保障措施的延长期不得长于以前适用保障措施的期限;

dd) The time limit for a sunset review is 6 months from the date of issuance of the review decision and, when necessary, may be extended once for not more than 6 months.

dd)日落复审的时限为自审查决定发布之日起6个月，必要时可延长一次，但不得超过6个月。

1. Review of the range of products subject to safeguard measures is prescribed as follows:

对于受保障措施约束的产品范围的复审，规定如下:

* 1. Importers of products subject to safeguard measures may request the investigating authority to review the range of products subject to safeguard measures;

受保障措施制约的产品的进口商可以要求调查机关对受保障措施制约的产品范围进行审查;

* 1. A dossier of request for review must include evidence and information proving that the application of safeguard measures to all the products is inappropriate;

复审申请书必须包括证据和资料，证明对所有产品适用保障措施是不当的;

* 1. Based on the investigating authority's review conclusion, the Minister of Industry and Trade shall decide to adjust the range of products subject to safeguard measures;

根据调查机关的审查结论，由工贸部部长决定调整保障措施产品的范围;

* 1. The time limit for a review of the range of products subject to safeguard measures is 6 months from the date of issuance of the review decision and, when necessary, may be extended once for not more than 3 months.

对受保障措施约束的产品范围进行复审的时限为自发布审查决定之日起6个月，必要时可延长一次，但不得超过3个月。

# Article 97. Re-application of safeguard measures

# 第97条 保障措施的重新适用

1. Safeguard measures already applied to a certain type of products may be re-applied to such products as follows:

已经适用于某类产品的保障措施可以重新适用于下列产品：

* 1. If safeguard measures have been applied for 4 years or more, including the extended period (if any), they may be re-applied only after a period at least equal to half of the previous application period;

如果已实施保障措施4年或4年以上，包括延长的期限(如果有的话)，只有在经过至少相当于上个执行期一半的期限之后才能重新实施;

* 1. If safeguard measures have been applied for between over 180 days and under 4 years, including the extended period (if any), they may be re-applied only after at least 2 years from the date of termination of these measures;

如果保障措施的适用期在180天以上至4年以下，包括延长的期限(如有)，则只有在这些措施终止之日起至少2年后才能重新适用;

* 1. If safeguard measures have been applied for 180 days or fewer, they may be re-applied only after at least 1 year from the date of commencement of application of such measures provided that these measures have not been applied for more than twice over 5 years before the effective date of re-applied measures.

如果实施保障措施的时间不超过180天，则只有在此类措施开始实施之日起至少1年后才能重新实施，但这些措施在重新实施措施生效之日前的5年内，实施时间不得超过两次。

1. The order and procedures for investigation for re-application of safeguard measures are the same as those for investigation for application of safeguard measures.

重新适用保障措施的调查命令和程序与适用保障措施的调查命令和程序相同。

# Article 98. Compensation

# 第98条 赔偿

1. Compensation for injury due to the application of safeguard measures and compensation levels must comply with Vietnamese law and treaties to which the Socialist Republic of Viet Nam is a contracting party.

对实施保障措施造成的损害的赔偿和赔偿水平必须符合越南法律，以及越南社会主义共和国为缔约方的条约。

1. Compensation for injury and compensation levels shall be determined based on results of consultation among interested parties.

损害赔偿和赔偿水平应根据利害关系方协商的结果来确定。

1. The Ministry of Industry and Trade shall assume the prime responsibility for, and coordinate with related ministries and ministerial-level agencies in, working out a compensation plan, and submit it to the Prime Minister for approval before consulting the party that suffers injury due to application of safeguard measures.

工贸部负责与有关部委和部级机构协调制定赔偿计划，并和实施保障而受到损害方进行协商沟通后提交总理批准。

# Article 99. Special safeguards

# 第99条 特别保障

1. Special safeguard is a safeguard measure which the Minister of Industry and Trade decides to apply in the case there is an excessive increase in imports into Viet Nam as a result of tax reduction according to a roadmap under the relevant treaty to which the Socialist Republic of Viet Nam is a contracting party.

特别保障措施是一种保障措施，根据越南社会主义共和国为缔约国的有关条约，由于减税而导致越南进口量过度增加时，工贸部部长决定采取这种保障措施。

1. Special safeguard measures may only be applied to products originating from specified countries in conformity with treaties to which the Socialist Republic of Viet Nam is a contracting party.

根据越南社会主义共和国为缔约国的条约，特别保障措施只能适用于来自特定国家的产品。

1. Investigation for application of special safeguard measures must comply with treaties to which the Socialist Republic of Viet Nam is a contracting party.

对实施特别保障措施的调查，必须遵守越南社会主义共和国为缔约国的条约。

[…]

[...]

# Chapter VIII IMPLEMENTATION PROVISIONS

# 第八章 执行规定

**Article 112. Effect**

第112条 效力

1. This Law takes effect on 1 January 2018.

本法自2018年1月1日起施行。

1. Except for cases specified in Article 113 of this Law, the following ordinances will cease to be effective on the effective date of this Law:

除本法第113条规定的情形外，下列条例自本法施行之日起失效：

* 1. Ordinance No. 42/2002/PL-UBTVQH10 on Safeguards in the Import of Foreign Products into Viet Nam;

关于外国产品进口到越南的保障措施的第42/2002/PL-UBTVQH10号法令;

* 1. Ordinance No. 20/2004/PL-UBTVQH11 on Anti-dumping of Imports into Viet Nam;

关于向越南进口反倾销产品的第20/2004/PL-UBTVQH11号条例;

* 1. Ordinance No. 22/2004/PL-UBTVQH11 on Measures against Subsidised Imports into Viet Nam.

针对越南进口补贴措施的第22/2004/PL-UBTVQH11号法令。

1. To annul Clause 3, Article 28; Clause 3, Article 29; Clause 3, Article 30; and Articles 31, 33, 242, 243, 244, 245, 246 and 247, of Commercial Law No. 36/2005/QH11.

废除第36/2005/qh11号商法第3条、第28条、第3条、第29条、第3条、第30条、第31条、第33条、第242条、第243条、第244条、第245条、第246条和第247条。

# Article 113. Transitional provision

# 第113条. 过渡性条款

From the effective date of this Law, trade remedy cases of which competent state agencies receive complaint or investigation dossiers before the effective date of this Law will continue to be considered and settled in accordance with Ordinance No. 42/2002/PL-UBTVQH10 on Safeguards in the Import of Foreign Products into Viet Nam, Ordinance No. 20/2004/PL-UBTVQH11 on Anti-dumping of Imports into Viet Nam, and Ordinance No. 22/2004/PL-UBTVQH11 on Measures against Subsidised Imports into Viet Nam./.

自本法生效之日起，国家主管机关在本法生效之日前收到申诉或调查档案材料的贸易救济案件，将继续按照《关于外国产品进口到越南的保障措施》的第42/2002/PL-UBTVQH10号法令、《关于向越南进口反倾销产品》的第20/2004/PL-UBTVQH11号法令，和《针对越南进口补贴措施》的第22/2004/PL-UBTVQH11号法令予以审议和解决。

*This Law was passed on 12 June 2017, by the 14th National Assembly of the Socialist Republic of Vietnam in its 3rd session.*

2017年6月12日，越南社会主义共和国第14届国民议会第3次会议通过了该法。

# CHAIRWOMAN OF THE NATIONAL ASSEMBLY

# 国民议会主席

**Nguyen Thi Kim Ngan**