

[Authentic in Lao Only]

LAO PEOPLE'S DEMOCRATIC REPUBLIC
Peace Independence Democracy Unity Prosperity

President

No. 287/P
Vientiane Capital, 07 December 2017

DECREE

of the

PRESIDENT

of the

LAO PEOPLE'S DEMOCRATIC REPUBLIC
on the Promulgation of the Law on Safeguards

- Pursuant to Chapter 6, Article 67, Clause 1 of the Constitution of the Lao People's Democratic Republic (Amended), 2015;
- Pursuant to Resolution No. 059/NA, dated 30 October 2017, of the National Assembly Session on the adoption of the Law on Safeguards; [and]
- Pursuant to Proposal No. 023/NASC, dated 24 November 2017, of the National Assembly Standing Committee.

The President of the Lao People's Democratic Republic Decrees That:

Article 1. The Law on Safeguards is hereby promulgated.

Article 2. This Decree shall enter into force from the date of its signature.

President of the Lao PDR

[seal and signature]

Bounhang VORACHITH

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LAO PEOPLE'S DEMOCRATIC REPUBLIC
Peace Independence Democracy Unity Prosperity

National Assembly

No. 059/NA
Vientiane Capital, 30 October 2017

RESOLUTION
of the
National Assembly Session
on the Adoption of the Law on Safeguards

Pursuant to Article 53, Clause 1 of the Constitution of the Lao People's Democratic Republic (Amended), 2015 and Article 11, Clause 1 of the Law on National Assembly (Amended), 2015.

After the 4th ordinary session of the VIII National Assembly's 8th Legislature, a wide range of studies was undertaken and an agreement was reached on the content of the Law on Safeguards in a resolution at the afternoon session of 30 October 2017.

The National Assembly Session Agrees That:

Article 1. The Law on Safeguards is adopted by majority vote.

Article 2. This Resolution shall enter into force from the date of its signature.

President of the National Assembly

[seal and signature]

Pany YATHOTOU

LAO PEOPLE'S DEMOCRATIC REPUBLIC
PEACE INDEPENDENCE DEMOCRACY UNITY PROSPERITY

National Assembly

No. 27/NA
Vientiane Capital, 30 October 2017

Law on Safeguards

Part I
General Provisions

Article 1 Objectives

This Law determines principles, regulations, and measures on the management, monitoring, and inspection of safeguard activities in order to enable the efficient and effective operation of such activities, which aim at strengthening domestic industry, enhancing its growth, and increasing its competitiveness with imports, thereby contributing to the national socio-economic development.

Article 2 Safeguards

Safeguards are the application of tariff measures or quantitative restrictions for a certain period of time in order to protect a domestic industry that is affected by either a serious injury or a threat of serious injury due to a surge in imports.

Article 3 Definitions

The terms as used in this Law shall have the following meanings:

1. **A domestic industry** refers to all producers of industrial and agricultural products or other types of product in the Lao People's Democratic Republic (Lao PDR) producing like or directly competitive products, or those whose collective output constitutes a major proportion of the total domestic production of those products.
2. Like products refer to products that are identical or similar characteristics to the products that are manufactured in the Lao PDR, especially in terms of functions, usages, quality, technical components, and sorted in the same product category.
3. Directly competitive products refer to imported industrial or agricultural products that can be substituted for domestic products.
4. **Increased imports** refer to an import of any products in such increased quantity in either absolute or relative terms compared with amount of like or directly competitive products manufactured in Lao PDR.
5. **Interested parties** refer to producers, exporters, or importers and the governments of exporting countries of the increased import product that has caused injury to a domestic industry that produces like or directly competitive products, or refers to groups, associations, or organizations that represent and protect the interests of a domestic industry.

6. **Increase in the importation of any products in either absolute or relative terms** refers to an increase in either percentage or amount of imports compared with domestic production.

7. **Serious injury** refers to a significant overall impairment to a domestic industry.

8. **A threat of serious injury** refers to a serious injury that is clearly imminent to a domestic industry.

Article 4 State Policy on Safeguard Activities

The state encourages and promotes safeguard activities by developing policies and measures to create a favorable environment and conditions for a domestic industry in order to improve competitiveness with imports.

The state provides budget, personnel, vehicles and equipment to increase the efficiency and effectiveness of responsible agencies in the implementation of safeguard activities.

Article 5 Principles on Safeguards

Safeguards shall be applied according to the following main principles:

1. Compliance with policies and laws;
2. Transparency, objectivity, and fairness;
3. The use of measures, when deemed necessary, for a certain period of time and without discriminatory treatment; [and];
4. Compliance with treaties and international agreements to which the Lao PDR is a party

Article 6 Scope of Application

This Law is applicable to domestic and foreign individuals, legal entities, and organizations that produce domestic products, and to importers.

Article 7 International Cooperation

The state promotes foreign, regional, and international cooperation with respect to safeguards by exchanging information, technical experiences, technologies, training and technical capacity building programs in order to ensure the effective implementation of safeguards; [and] its compliance with international agreements and treaties to which Lao PDR is a party.

Part II

Determination and Investigation of Injury

Chapter 1

Determination of injury to a domestic industry

Article 8 Injury to a Domestic Industry

Injury to a domestic industry is a loss of overall commercial benefits from a significant increase in imports, and under such conditions as to cause or threaten to cause a serious injury, to a domestic industry.

Article 9 Determination of Serious Injury

In a determination of serious injury to a domestic industry, the following factors shall be considered:

1. Rate and amount of the increased imports of the products concerned in absolute and relative terms;
2. Decrease in the market share of the domestic industry;
3. Change in the level of sales;
4. Change in the level of production;
5. Change in the level of productivity;
6. Change in the level of capacity utilization;
7. Change in the level of profits or losses;
8. Change in the level of employment; and
9. Other relevant factors.

An injury caused by factors other than the increased imports may not be deemed a serious injury.

The detailed contents of the eight factors and the degree of serious injury are defined in specific regulations.

Article 10 Determination of Threat of Serious Injury

A determination of threat of serious injury to a domestic industry shall be based on the factors as defined in Article 9 of this Law.

Chapter 2

Investigation of Injury from Imports

Article 11 Investigation of Injury from Imports

An investigation of injury from imports is the determination of whether a domestic industry has suffered serious injury or threat thereof caused by the significant increase in imports.

The investigation of injury from imports may be conducted when any of the causes defined in Article 12 of this Law are present.

The Ministry of Industry and Commerce, in collaboration with ministries and relevant sectors, shall conduct the investigation of injury from imports before proposing to the Government to consider the application of safeguards measures as defined in Article 24 of this Law.

Article 12

Causes of Investigation The causes of investigation on injury from imports are as follows: A petition by or on behalf of a domestic industry; A discovery of information or evidence of injury to a domestic industry by the investigating authorities.

Article 13 A Petition from a Domestic Industry or Its Representative

A domestic industry or its representative may file a petition to the Ministry of Industry and Commerce, in prescribed form, to conduct an investigation as defined in Article 9 of this Law.

The petition shall contain the following information:

Information of the concerned imported product; 2. Information of the producers, exporters, and importers; 3. A causal link between the increased imports and a serious injury or a threat thereof; and 4. An adjustment plan of a domestic industry.

After receiving the petition, the investigating authorities shall complete their consideration of the information and evidence within fifteen working days from the date of receiving the petition. If the consideration is not completed within the determined time period, the investigating authorities shall propose to the Minister of Industry and Commerce to consider an extension of not more than ten working days.

In case where the investigating authorities find no evidence to indicate that there is an increase in imports which may cause any injury to a domestic industry, they shall report to the Minister of Industry and Commerce and notify the petitioner regarding the analysis results.

In case where the investigating authorities find evidence to indicate that there is an increase in imports which has caused injury to a domestic industry, they shall report to the Minister of Industry and Commerce for consideration of issuing a Decision on Investigation.

Article 14 Discovery of Information and Evidence by Investigating Authorities

When the investigating authorities discover information or evidence indicating that the increased imports have caused serious injury or a threat thereof, they shall report to the Minister of Industry and Commerce for consideration of issuing a Decision on Investigation.

Article 15 Investigative Procedures

An investigation shall be conducted in accordance with the following procedures: 1. Issuance of a Decision on Investigation; 2. Actual investigation; 3. Summary report on the investigation results.

Article 16 Issuance of Decision on Investigation

After receiving the summary report from the investigating authorities, the Minister of Industry and Commerce shall consider issuing a Decision on Investigation, including the appointment of an investigating committee regarding an injury from imports.

The investigating committee shall consist of the investigating authorities, government officials of the industry and commerce sector, and other relevant sectoral representatives.

Article 17 Actual Investigation

After the Minister of Industry and Commerce has issued the Decision on Investigation, the investigating authorities shall carry out the investigation according to the following procedures:

1. Notify the exporting country, the applicant, the World Trade Organization (WTO) and interested parties before carrying out the actual investigation;
2. Disseminate the Decision on Investigation on any media to inform the public;
3. Consult with the interested parties in order for them to show evidence, documents, and their views on the application of safeguard measures to ensure the public interests;
4. Collect data at relevant locations to certify the accuracy and truth of injury from an increase of imports.

The investigation shall be completed within one hundred and eighty days from the date of issuance of the decision. If the investigation is not completed within the determined time, the investigating authorities can propose to the Minister of Industry and Commerce for considering an extension of not more than sixty days.

Article 18 Summary Report on Investigation Results

After completing an investigation, the investigating committee shall summarize and report the results of the investigation, including evidence gathered, to the Minister of Industry and Commerce, who shall propose to the Government to consider whether or not to apply safeguard measures.

Article 19 Termination of Investigation

The Minister of Industry and Commerce shall issue a Decision on Termination of an investigation in the following cases: 1. The applicant withdraws its application; 2. There is no causal link between the increased imports and a serious injury or threat of serious injury; 3. Other reasons.

Following the issuance of the Decision on Termination of an investigation, the Ministry of Industry and Commerce shall notify the WTO and interested parties as well as disseminate the Decision to the public.

Article 20 Treatment of Confidential Information

The investigating authorities and committee shall keep confidential information or treat information provided by interested parties as confidential, and shall not disclose such information to the public without the permission of the provider.

The investigating authorities and committee may request the provider to provide non-confidential summaries that can be disclosed to the public. If the provider indicates that the information cannot be summarized, the reasons shall be provided.

If the investigating authorities and committee find that a request for confidential treatment is unreasonable and if the provider is unwilling to disclose the information or provide a summary of it to the public without sufficient reason, the investigating authorities may disregard the information as a basis for consideration, unless there is proof obtained from another appropriate source that such information is accurate.

Article 21 Cost of Investigation

The cost of investigation shall be derived from the Government's budget as defined in the laws.

Article 22 Investigating Authorities

The investigating authorities are civil servants appointed by the Minister of Industry and Commerce to carry out the investigation regarding injury from imports as defined under this Law.

Article 23 Rights and Duties of Investigating Authorities

The investigating authorities have the following rights and duties:

1. Collect and analyze data regarding injury from the increased imports;
2. Investigate or request information from the petitioner, the importer, and the domestic industry regarding injury from the increased imports;
3. Summarize and report on injury from the increased imports to the Minister of Industry and Commerce for consideration;
4. Research and propose determination or extension of the duration of safeguard measures; [and]
5. Perform rights and other duties as defined under this Law.

Part III Safeguard Measures

Chapter 1 Types of Safeguard Measures

Article 24 Types of Safeguard Measures

Safeguard measures consist of the two following types:

1. Provisional safeguard measures;
2. General safeguard measures.

Article 25 Provisional Safeguard Measures

Provisional safeguard measures apply to the importer, during the course of investigation, in a form of credit guarantee in accordance with the Ministry of Finance's regulations.

Article 26 General Safeguard Measures

General safeguard measures apply to the importer, after the completion of investigation, where there is serious injury to like products, as defined in Article 9 of this Law, by determining import quotas or tariff increases.

Chapter 2 Application of Provisional Safeguard Measures

Article 27 Application of Provisional Safeguard Measures

During the course of investigation, if there is clear evidence that the increased imports have caused,

or threatened to cause serious injury to a domestic industry, or if any delay would cause damage which would be difficult to repair, then the investigating committee shall report immediately to the Minister of Industry and Commerce in order to propose to the Government to consider application of provisional safeguard measures.

After issuing a decision to apply provisional safeguard measures, the Ministry of Finance and interested parties shall implement such measures.

The Ministry of Industry and Commerce shall notify the WTO and interested parties of the application of provisional safeguard measures.

Article 28 Duration of Provisional Safeguard Measures

The duration of provisional safeguard measures shall not exceed two hundred days from the date issuing the decision to apply such measures and shall be terminated when the investigation is concluded or the duration for the application of such measures has expired.

Article 29 Termination of Provisional Safeguard Measures

The Government shall consider termination of the application of provisional safeguard measures before their due date as defined in Article 28 of this Law if the investigation demonstrates that the increased imports have not caused serious injury or threat thereof.

The Ministry of Industry and Commerce shall notify the interested parties of the termination of the application of provisional safeguard measures, and the Ministry of Finance shall return the credit guarantee to the importer immediately.

Chapter 3

Application of General Safeguard Measures

Article 30 Application of General Safeguard Measures

After completion of an investigation and there is sufficient evidence that the increased imports have caused serious injury or threat thereof to a domestic industry, the investigating committee shall report to the Minister of Industry and Commerce, who may propose to the Government to consider application of general safeguard measures.

After receiving a letter from the Ministry of Industry and Commerce, the Government shall consider whether to apply the general safeguard measures within fifteen working days by determining import quotas, and the Ministry of Industry and Commerce shall be responsible for the implementation. The imposition of import quotas shall not reduce the quantity of imports below the average level of imports in the last three years, unless clear justification is given that there is a need to further reduce the import quotas in order to remedy the adverse effects.

For the tariff increases, the Ministry of Finance shall consider the proposal of the Ministry of Industry and Commerce and then propose it to the Government, who shall then propose it to the Standing Committee of the National Assembly for consideration.

General safeguard measures shall be applied only when deemed necessary. Such measures, if applied for more than one year, shall be progressively liberalized at regular intervals during the period of application.

The Ministry of Industry and Commerce is responsible to promptly notify the WTO and interested parties of an application of general safeguard measures.

Article 31 Duration of General Safeguard Measures

The duration of application of general safeguard measures shall not exceed four years from the date of application of provisional safeguard measures, unless there is an extension as defined in Article 33 of this Law.

Article 32 Review of General Safeguard Measures

When the duration of application of general safeguard measures exceeds three years, after mid-term of the application period has passed, the Ministry of Industry and Commerce shall review the application of such measures and propose to the Government to consider whether to maintain, liberalize, or terminate such measures.

The Ministry of Industry and Commerce is responsible to promptly notify the result of the review of general safeguard measures and the decision of the Government to the WTO and interested parties.

Article 33 Extension of General Safeguard Measures

General safeguard measures can be extended two times. The first extension shall not exceed four years and the second extension shall not exceed two years. Within sixty days before the period of application is due, a domestic industry shall make a proposal to the Ministry of Industry and Commerce for consideration on extending the application of such measures.

After receiving the proposal from a domestic industry, the Ministry of Industry and Commerce shall consider within fifteen working days whether it is necessary to continue the application of such measures and shall propose its recommendation to the Government for consideration.

In case where there is the extension of the application of general safeguard measures, the measures applied shall be progressively liberalized.

The Ministry of Industry and Commerce shall promptly notify the WTO and interested parties of the extension of the application of general safeguard measures.

Article 34 Reapplication of General Safeguard Measures

In cases when the application of general safeguard measures has expired but a domestic industry continues to suffer from the damage, the measures can be reapplied to the same products for a period of time equal to that during which such measure had been previously applied, provided that the period of non-application is at least two years.

Safeguard measures with a duration of not more than one hundred and eighty days may be reapplied to imported products when at least one year has elapsed since the date of application. They shall not be applied for such products more than two times in five-year period.

Article 35 Solution to the Effect of General Safeguard Measures

In case when the period of application or extension of general safeguard measures is taken over three years, the Government may consult with the exporting country that may be affected by the application of such measures by reducing an import duty to a level that is consistent with Lao PDR's obligations to the WTO.

Article 36 Exemption of Safeguard Measures

The application of safeguard measures shall be exempted in the following cases:

1. If the share of imports from developing countries, who are WTO members, does not exceed three percent of the total import of products being investigated, or the share of total imports from developing countries collectively account for not more than nine percent; [or]
2. If the application of general safeguard measures may cause injury to the socioeconomic of the country, then the Ministry of Industry and Commerce shall notify the WTO and interested parties regarding the non-application of such measures.

Part IV Prohibitions

Article 37 General Prohibitions

Individuals, legal entities or organizations are prohibited from:

1. Providing assistance or protecting violators of the law and regulations on safeguards;
2. Acting as an intermediary or accepting a bribe for their own interest or those of their associates, relatives, and organizations or any persons;
3. Obstructing the performance of the investigating authorities and committee; [and]
4. Undertaking other acts that violate the laws.

Article 38 Prohibitions for a Domestic Industry

Domestic industry is prohibited from:

1. Defaming an importer of like products [or] forging, distorting, or providing false information to the investigating authorities and committee;
2. Bribing officials and relevant people involved in safeguard activities; [and]

3. Undertaking other acts that violate the laws.

Article 39 Prohibitions for Investigating Authorities, Committee and Relevant Officials

The investigating authorities, committee and relevant officials are prohibited from:

1. Abusing their power, duties, or positions for their own interests or those of their associates, relatives, organizations, or any persons;
2. Accepting bribes from members of a domestic industry or importers;
3. Disclosing confidential information [and] documents without authorization;
4. Delaying the consideration of documents without any reasonable cause or withholding the documents of a domestic industry affected by imports;
5. Conspiring with a domestic industry in hiding evidence; [and]
6. Undertaking other acts that violate the laws.

Part V

Administration and Inspection

Chapter 1

Administration of Safeguard Activities

Article 40 Safeguards Administration Authority

The Government centrally and uniformly administers safeguard activities throughout the country by designating the Ministry of Industry and Commerce to take direct responsibility and exercise leadership, in collaboration with the Ministry of Finance, other sectors, and relevant local administrations.

Safeguards administration authority consists of the:

1. Ministry of Industry and Commerce;
2. Central and Provincial Departments of Industry and Commerce; [and]
3. Central, Municipal, and District Offices of Industry and Commerce.

Article 41 Rights and Duties of the Ministry of Industry and Commerce

In the administration of safeguard activities, the Ministry of Industry and Commerce shall have rights and duties in accordance with its responsibilities as follows:

1. Research [and] develop policies, strategic plans, and laws in order to make proposals to the Government for consideration;
2. Elaborate policies, strategic plans, laws, and regulations regarding safeguard activities into plans, programs, and detailed projects for implementation;
3. Publicize and disseminate policies, strategic plans, laws, and regulations with regard to safeguard activities;
4. Investigate and propose to the Government for considering the application of safeguard measures;
5. Issue decisions, orders, and instructions on application of safeguard measures to remedy

- the injury from imports;
6. Enhance, train, and upgrade civil servants on safeguard activities;
 7. Appoint the investigating authorities and committee regarding determination of injury for safeguard activities;
 8. Consult and coordinate with the line ministries, ministry-equivalent organizations, and other sectors and relevant local authorities;
 9. Carry out international cooperation and exchanges of experience regarding safeguard activities;
 10. Summarize and report on the implementation of safeguard activities to the Government on a regular basis; [and]
 11. Perform other rights and duties as defined under the laws.

Article 42 Rights and Duties of the Central [and] Provincial Departments of Industry and Commerce

In the administration of safeguard activities, the Central [and] Provincial Departments of Industry and Commerce shall have rights and duties in accordance with their responsibilities as follows:

1. Elaborate and implement policies, strategic plans, laws, regulations, and action plans on safeguard activities;
2. Publicize and disseminate policies, strategic plans, laws, and regulations on safeguard activities;
3. Facilitate and cooperate with the investigating authorities and committee in implementing safeguard activities;
4. Receive proposals and information regarding safeguard activities from a domestic industry and other relevant sectors, and report to the Ministry of Industry and Commerce for consideration;
5. Monitor and inspect implementation of the laws and regulation relating to safeguard activities;
6. Summarize and report on the implementation of safeguard activities to the Ministry of Industry and Commerce on a regular basis; [and]
7. Perform other rights and duties as defined under the laws.

Article 43 Rights and Duties of Central, Municipal, [and] District Offices of Industry and Commerce

In the administration of safeguard activities, the Central, Municipal, [and] District Offices of Industry and Commerce shall have rights and duties in accordance with their responsibilities as follows:

1. Implement plans, decisions, orders, and instructions issued by higher authorities regarding safeguard activities;
2. Disseminate laws and regulations with regard to safeguard activities;
3. Facilitate and cooperate with the investigating authorities and committee on determination

- of injury from imports;
4. Monitor [and] inspect the implementation of laws and regulations on safeguard activities;
 5. Summarize and report on the implementation of safeguard activities to Provincial Departments of Industry and Commerce and district authorities on a regular basis; [and]
 6. Perform other rights and duties as defined under the laws.

Article 44 Rights and Duties of Ministry of Finance

In the administration of safeguard activities, the Ministry of Finance shall have the following rights:

1. Keep or return the credit guarantee from the application of provisional safeguard measures;
2. Collect import duty from the application of provisional safeguard measures;
3. Coordinate with the Ministry of Industry and Commerce in determination of import tariff rates to protect a domestic industry;
4. Issue decisions, orders, and instructions on keeping or returning the credit guarantee from the application of provisional safeguard measures and import tariff rates;
5. Summarize and report on the implementation of safeguards activities within its scope of rights and responsibilities to the Government of Lao PDR on a regular basis; [and]
6. Perform other rights and duties as defined under the laws.

Article 45 Rights and Duties of Other Sectors and Relevant Local Administrations

Other sectors and relevant local administrations shall have the rights and duties to cooperate, provide information, and coordinate with the industry and commerce, finance, and public security sectors in implementing safeguard activities according to their roles and scope of responsibilities.

Chapter 2

Inspection of Safeguard Activities

Article 46

Safeguards Inspection Authority

The safeguards inspection authority consists of

1. Internal inspection authority shall mean the same as safeguards administration authority as defined in Article 40 of this law; [and]
2. External inspection authority, which includes the National Assembly, Provincial People's Assemblies, Government Inspection Authority, State Audit Organization, Lao Front for National Development, and mass organizations and the media, is responsible for inspecting the implementation of safeguard activities according to their roles, rights, and duties.

Article 47 Contents of Safeguards Inspection

Contents of safeguards inspection consists of the following:

1. Implementation of policies, strategic plans, laws, and regulations relating to safeguards;

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2. Organization and the activities of safeguards administration authority; [and]
3. Responsibilities, behaviors, and working methods of the officials, investigating authorities, and committee.

Article 48 Forms of Safeguards Inspection

The forms of safeguards inspection are as follows:

1. Regular inspection refers to an inspection that is carried out in accordance with laws, plans, and in a certain period of time;
2. Inspection with prior notice refers to an ad hoc inspection which is carried out, as deemed necessary, and whether notice is given to the inspected person at least twenty-four hours in advance; [and]
3. Impromptu inspections refer to an inspection which is carried out urgently without giving prior notice to the inspected person in advance.

The safeguards inspection shall include both an inspection of documents and on-site investigation at the premises of importers and a domestic industry in accordance with the laws.

Part VI

Policies Towards Persons with Outstanding Performance and Measures Against Violators

Article 49 Policies Towards Persons with Outstanding Performance

Individuals, legal entities, or organizations with remarkable accomplishments in implementing this Law shall receive recognitions or other incentives according to the regulations.

Article 50 Measures against Violators

Individuals, legal entities, or organizations who violate this Law shall be subject to education, warning, disciplinary action, fines, civil compensation, or criminal punishment according to the laws depending on the seriousness thereof.

Part VII

Final Provisions

Article 51 Implementation

The Government of the Lao People's Democratic Republic shall implement this Law.

The COV

Article 52 Effectiveness

This Law shall be effective from the date the President of the Lao People's Democratic Republic

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issues the promulgating decree and after fifteen days of its publication in the official gazette.

Regulations [and] provisions that contradict this law are hereby repealed.

President of the National Assembly

[seal and signature]

Pany YATHOTOU