

CIRCULAR

**PROVIDING GUIDELINES FOR IMPLEMENTATION OF THE FREE TRADE AGREEMENT
BETWEEN THE SOCIALIST REPUBLIC OF VIETNAM AND THE UNITED KINGDOM OF
GREAT BRITAIN AND NORTHERN IRELAND REGARDING TRADE REMEDIES**

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

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

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

*In order to implement the Free Trade Agreement between the Socialist Republic of Vietnam and
the United Kingdom of Great Britain and Northern Ireland;*

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

*The Minister of Industry and Trade promulgates a Circular providing guidelines for
implementation of the Free Trade Agreement between the Socialist Republic of Vietnam and the
United Kingdom of Great Britain and Northern Ireland regarding trade remedies.*

Chapter I

GENERAL PROVISIONS

Article 1. Scope

1. This Circular provides guidelines for investigation and imposition of anti-dumping, countervailing duties and bilateral safeguard measures for the purposes of implementation of the Free Trade Agreement between the Socialist Republic of Vietnam and the United Kingdom of Great Britain and Northern Ireland.

2. Regulations herein shall apply to products originating in the United Kingdom of Great Britain and Northern Ireland under the Free Trade Agreement between the Socialist Republic of Vietnam and the United Kingdom of Great Britain and Northern Ireland.

Article 2. Regulated entities

1. Vietnamese regulatory authorities that have the jurisdiction to initiate investigations, impose and deal with trade remedies for implementation of the Free Trade Agreement between the Socialist Republic of Vietnam and the United Kingdom of Great Britain and Northern Ireland.
2. Domestic and foreign traders, authorities, organizations and individuals involved in the investigation, imposition and handling of trade remedies for implementing the Free Trade Agreement between the Socialist Republic of Vietnam and the United Kingdom of Great Britain and Northern Ireland.

Article 3. Definitions

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

1. “UKVFTA Agreement” means the Free Trade Agreement between the Socialist Republic of Vietnam and the United Kingdom of Great Britain and Northern Ireland.
2. “EVFTA Agreement” means the Free Trade Agreement between the Socialist Republic of Vietnam and the European Union.
3. “bilateral safeguard measure” means a special safeguard measure that is specified in Article 99 of the Law on Foreign Trade Management and Article 3.10 Chapter 3 of the EVFTA Agreement, incorporated into and made part of the UKVFTA Agreement, and applied to products originating in the United Kingdom of Great Britain and Northern Ireland, qualified for preferential tariff treatments, and imported to Vietnam, under investigation conditions and procedures laid down in this Circular.
4. “transition period” means a period commencing on January 01, 2021 and ending on December 31, 2030.
5. “domestic industry” refers to the producers as a whole of the like or directly competitive products operating within the territory of Vietnam or to those of them whose collective output of the products constitutes a major proportion of the total domestic production of those products. The major proportion of the total domestic production shall be determined in accordance with the provisions of Clause 2 Article 4 of the Decree No. 10/2018/ND-CP.
6. “investigating authority” means the Trade Remedies Authority of Vietnam affiliated to the Ministry of Industry and Trade.

Chapter II

ANTI-DUMPING AND COUNTERVAILING MEASURES

Article 4. Consideration of socio-economic interests

1. The Ministry of Industry and Trade shall decide not to impose the anti-dumping or countervailing measures where, on the basis of the information made available during the investigation, the investigating authority clearly concludes that it is not in socio-economic interests to apply such measures.

2. In determining the socio-economic interests, the investigating authority shall take into account the situation of the domestic industry, importers and their representative associations, representative users and representative consumer organizations, based on the relevant information provided to it.

Article 5. Lesser duty rule

1. An anti-dumping duty or countervailing duty imposed shall not exceed the margin of dumping or countervailable subsidy.

2. Based on conclusions given by the investigating authority, the Ministry of Industry and Trade shall consider imposing an amount of anti-dumping duty or countervailing duty lesser than the margin of dumping or countervailable subsidy if such lesser duty would be adequate to remove the injury to the domestic industry.

Chapter III

BILATERAL SAFEGUARD MEASURES

Article 6. Rules for application of bilateral safeguard measures

1. At the same time, a bilateral safeguard measure and a safeguard measure under Article XIX of the General Agreement on Tariffs and Trade in 1994 (GATT 1994) shall not apply with respect to the same product qualified for the Most-Favoured-Nation (MFN) tariff rate of customs duty under the UKVFTA Agreement.

2. A bilateral safeguard measure shall not apply beyond the transition period, except with the consent of the United Kingdom of Great Britain and Northern Ireland.

3. The initiation of investigations and imposition of a bilateral safeguard measure on products imported from the United Kingdom of Great Britain and Northern Ireland must comply with the regulations of this Circular and Vietnam's regulations on trade remedies.

Article 7. Application for imposition of bilateral safeguard measures

1. An application for imposition of a bilateral safeguard measure (referred to as "application" in this Chapter) includes the application form for imposition of a bilateral safeguard measure and relevant documents specified in Article 47 of Decree No. 10/2018/ND-CP.

2. The application form for imposition of a bilateral safeguard measure prepared according to Clause 2 Article 47 of Decree No. 10/2018/ND-CP must include the following information:

a) Name, address and other necessary information of the representative of the domestic industry;

b) Information, figures and evidences used for determining the representative of the domestic industry, including the list of domestic producers of the like or directly competitive products; amount, quantity of the like or directly competitive products manufactured by those producers;

c) Names and addresses of producers of the like or directly competitive products expressing either support for, or opposition to, the case;

d) Description of the imported product qualified for the MFN tariff rate of customs duty under the UKVFTA Agreement and subject to the investigation for imposition of the safeguard measure, including scientific name, commercial name, common name, composition, physical and chemical properties, main uses, production process, applied international and Vietnamese standards and/or regulations, HS code and the MFN tariff rate in effect as specified in the special preferential import tariff schedule for implementation of the UKVFTA Agreement;

dd) Description of the like or directly competitive product of the domestic industry, including scientific name, commercial name, common name, composition, physical and chemical properties, main uses, production process, applied international and Vietnamese standards and/or regulations;

e) Information relating to amounts, quantities and values of the imported product as prescribed in Point d of this Clause within the period of 03 years before the application submission date, including at least 06 months after the UKVFTA Agreement comes into force;

g) Information relating to amounts, quantities and values of the like or directly competitive product produced by the domestic industry as prescribed in Point dd of this Clause within the period of 03 years before the application submission date, including at least 06 months after the UKVFTA Agreement comes into force. If the operating duration of the domestic industry is less than 03 years, the submitted data shall include the entire operating duration of the domestic industry by the time of submission of the Application;

h) Information, figures and evidences about the serious injury or threat of serious injury to the domestic industry;

i) Information, figures and evidences about the causal link between the imported product prescribed in Point d of this Clause and the serious injury or threat of serious injury to the domestic industry;

k) Specific requests for application of the safeguard measure, duration and level of the safeguard measure.

Article 8. Notification

The investigating authority shall notify the United Kingdom of Great Britain and Northern Ireland in writing of all pertinent information leading to the initiation of an investigation for application of a bilateral safeguard measure and consult with the United Kingdom of Great Britain and Northern Ireland as far as practicable as prescribed in the UKVFTA Agreement.

Article 9. Investigation, application of bilateral safeguard measures

1. The investigation for application of a bilateral safeguard measure must be completed within the maximum duration of 01 year of the date of issuance of the decision to initiate the investigation.

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

a) There is an absolute or relative increase in amounts/quantities of imported product benefiting from the MFN tariff rate under the UKVFTA Agreement, compared to those of the like and directly competitive product domestically produced;

b) The domestic industry suffers from serious injury or threat of serious injury;

c) The serious injury or threat of serious injury incurred by the domestic industry is caused by the increased imports as set out in Point a of this Clause.

3. The applied bilateral safeguard measure includes:

a) Suspension of the further reduction of the rate of customs duty on the imported good as provided for in the UKVFTA Agreement; or

b) Increase of the rate of customs duty on the imported product to a level which does not exceed the lesser of the MFN applied rate of customs duty on the imported product in effect at the time the measure is taken, or the base rate of customs duty on the imported product specified in the schedules included in Annex 2-A (Elimination of Customs Duties) pursuant to Article 2.7 (Reduction or Elimination of Customs Duties) of the EVFTA Agreement (incorporated into Part 2 of the Annex amending some of the EVFTA text of the UKVFTA Agreement) whichever lower.

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

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

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

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

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

a) The producer or exporter whose product is imported into the territory of Vietnam and subject to the investigation;

b) The importer of the product subject to investigation;

c) The trade or business association a majority of the members of which are producers or exporters of the product subject to investigation;

d) The Government and competent authorities of the United Kingdom of Great Britain and Northern Ireland exporting the product subject to investigation;

dd) The applicant for imposition of a bilateral safeguard measure;

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

Chapter IV

IMPLEMENTATION

Article 11. Effect

This Circular comes into force from December 15, 2021./.

MINISTER

Nguyen Dong Dien

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