



CONVENIENCE TRANSLATION - ACCURACY NOT GUARANTEED

**Law to Prevent an Increased Quantity of Imports
(Pyidaungsu Hluttaw Law Number 35/2019)
1381, 13th Waxing Day of Nadaw
(24th December 2019)**

The Pyidaungsu Hluttaw has enacted this law.

Chapter (1)

Title, entering into force and definitions

1. (a) This law shall be called the Law to Prevent an Increased Quantity of Imports.
(b) This law shall enter into force on the date specified by notification of the President.
2. The expressions included in this law are defined as follows:
 - (a) **“Safeguard measure”** means a measure for prevention and remedy if increased imports in Myanmar cause, to domestic producers, a serious injury, or threat of a serious injury, with regard to the like or directly competitive product. The measure consists of preliminary prevention by administering tariffs, prevention by administering tariffs, or a restriction of imports.
 - (b) **“Increased import”** means a quantity of any kind of import in Myanmar which is, in absolute or relative terms, significantly higher than the amount of domestic production of the like or directly competitive product.
 - (c) **“Domestic producer”** means the following person or organization:
 - (1) A producer of the like or directly competitive product within the country.
 - (2) A producer that produces a similar product which is combined with raw materials from abroad but with a higher proportion of raw materials from a domestic or directly competitive producer.
 - (d) **“Serious injury”** means a condition which causes an overall impairment in the position of domestic producers.
 - (e) **“Threat of a serious injury”** means a condition which causes a threat of an overall impairment in the position of domestic producers.



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- (f) **“Like product”** means a domestic product whose feature is the same as, or similar to, that of an investigated product.
- (g) **“Directly competitive product”** means a domestic product whose chemical composition or other features such as the physical appearance or techniques are different from an investigated product, but which can be substituted by an investigated product according to its intended use in a competitive market.
- (h) **“Investigated product”** means an import from abroad which is investigated under this law.
- (i) **“Concerned parties”** means a producer who produces an investigated product, a like or directly competitive product, an organization which is able to represent the interests of workers from this business, a seller, an importer, a traders’ organization, and a producer from abroad who produces an investigated product, an exporter, an organization relating to an exporter, and their governments.
- (j) **“Tariff for preliminary prevention”** means a tariff under the Customs Act and additional tariffs, to be paid during the investigation period under this law, in order to prevent a serious injury, or threat of a serious injury, to domestic producers.
- (k) **“Tariff for prevention”** means a tariff under the Customs Act and additional tariffs, to be paid according to a decision after the investigation, in order to prevent a serious injury, or threat of a serious injury, to domestic producers due to increased imports.
- (l) **“Restriction of imports”** means a restriction, according to a decision after the investigation, to import an investigated product in order to prevent a serious injury, or threat of a serious injury, to domestic producers due to increased imports.
- (m) **“Developing country”** means a country which is included in the United Nations’ list of names of developing countries.
- (n) **“Committee”** means the committee which is formed under this law to prevent an increased import.
- (o) **“Ministry”** means the Ministry of Commerce.
- (p) **“Administration Department”** means an administration department which is authorized by the Ministry to operate a safeguard measure.



- (q) “**Investigation team**” means a team which is authorized by the Committee to perform tasks as prescribed in this law.

Chapter (2) Objectives

3. The objectives of this law are as follows:
- (a) Making it possible to apply a safeguard measure for prevention and remedy when there is, due to an increased import, a serious injury or threat of a serious injury to domestic producers that produce the like or directly competitive product.
 - (b) Making it possible for domestic producers to compete during a certain period.
 - (c) Administering sufficiently high tariffs on an import in order to prevent and remedy an injury if the injury is due to an increased import.

Chapter (3) Forming the Committee to prevent an increased import, and its duties

4. The Government -
- (a) Shall form the Committee to prevent an increased import with not more than nine persons from the following departments:
 - (1) Union Minister, Ministry of Commerce Chairman
 - (2) Deputy Minister, Ministry of Planning, Finance and Industry Vice-chairman
 - (3) Government officials whose position is not lower than the Members
director level at relevant government departments and organizations
 - (4) Director General of the Administration Department Secretary
 - (b) May, when forming the Committee under sub-section (a), establish a joint-secretary if this is necessary.
 - (c) May, if necessary, reform the Committee formed under sub-section (a).

5. The duties and powers of the Committee are as follows:



- (a) Deciding if the Committee should examine an initial instruction submitted by the Administration Department regarding a safeguard measure.
- (b) Authorizing an investigation team to perform investigations and make suggestions under this law.
- (c) Examining the investigations and suggestions submitted by an investigation team through the Administration Department.
- (d) Deciding to set, update and amend a safeguard measure.
- (e) Making suggestions to the Union Ministry for efficiently implementing this law.
- (f) Asking, in order to implement this law, relevant departments for required accounts, facts and evidence.
- (g) Delegating power of the Committee to the Administration Department and investigation team.
- (h) If necessary, forming branch Committees.

Chapter (4)

Authorizing the Administration Department, and its duties

6. The duties of the Administration Department are as follows:
- (a) Submitting an application for a safeguard measure to the Committee if the evidence is sufficient.
 - (b) Supervising the investigation team.
 - (c) Reporting the investigation team's investigations and suggestions to the Committee.
 - (d) Keeping the accounts, facts and evidence which are received from the relevant departments and organizations.
 - (e) Performing the tasks of the Committee and investigation team.
 - (f) Performing other duties which are requested by the Committee.



Chapter (5)

Initial instruction

7. A domestic producer who suffers a serious injury due to an increased import or a representative of such producer shall apply for the application of a safeguard measure with the specified application form.
8. The Administration Department shall, within 5 working days after the date of receipt of the application form, initially instruct [*the Committee*] to investigate if the specified evidence is included [*in the application*], and then submit [*the application*] to the Committee.
9. The Committee shall make the following decision according to section 8 :
 - (a) Requesting resubmission if evidence and facts are inadequate.
 - (b) Deciding whether to investigate.
10. If an applicant is instructed by the Administration Department to resubmit any evidence concerning an investigation, he shall do so within the defined timeframe.
11. If the Committee decides not to investigate on the matter, the Administration Department shall promptly inform the applicant.

Chapter (6)

Investigation

12. If the Committee decides to perform an investigation, an investigation team composed either of experts in the field from the Administration Department or one led by an expert from the Administration Department, together with experts from concerned Government departments or organizations shall be formed.
13. The investigation team shall -
 - (a) Perform investigations starting on the date of its inception.
 - (b) Inform the applicant as well as other persons concerned about its investigation into the matter.
14. The investigation team may, when investigating and with the permission of the Committee, request required accounts, facts and evidence from the concerned parties and from the relevant department and organization.



15. The investigation team may, when investigating, send questions to the concerned parties, conduct a public hearing or use other appropriate ways.
16. The investigation team, within a timeframe set by the Committee, shall send information to the Committee (through the Administration Team) regarding the initial assessment during its investigation, and after its investigations have concluded, send its final assessment.

Conserving confidential information

17. The investigation team shall, when investigating, keep trade secrets or other confidential information regarding business dealings and any data, statistics and evidence concerning this information confidential.
18. The Committee, Administration Department and investigation team are not allowed to disclose confidential information and evidence without permission of the concerned party.
19. The investigation team shall request the concerned party to submit non-confidential summaries if they are required in a process of confidential submission. If the concerned party fails to submit these summaries, the investigation team shall ask for the reason.
20. The investigation team shall disregard facts if it does not believe that the accounts, facts and evidence are not required to be deemed confidential, or when facts are submitted, without permission, in the form of a non-confidential executive summary for public knowledge.

Chapter (7)

Determining and assessing serious injury and providing preliminary prevention

21. When an investigation team is determining whether there is a serious injury or threat of a serious injury to a domestic producer due to an increased import, the following facts, and other required facts, regarding the business of the producer shall be considered:
 - (a) The rate and amount of the increased import
 - (b) The share of the increased import in the domestic market
 - (c) Change of the sales situation
 - (d) Change of the production situation
 - (e) Change of the production capacity
 - (f) Change of the profit and loss situation



- (g) Change of the employment situation
22. The investigation team shall determine that a product causes a serious injury or threat of a serious injury only if there is a causal connection between the increased import and the serious injury, or threat of a serious injury, to the businesses of domestic producers.
23. The investigation team may not hold that an injury is caused by an increased import if it finds that the injury to the businesses of domestic producers is due to other causes.
24. The investigation team shall suggest, to the Committee, to apply a tariff for preliminary prevention with regard to a product which is imported during the investigation period if it finds, upon the initial instruction, that the injury to the businesses of domestic producers is a serious emergency *[for the producer]*.
25. (a) The Committee may administer an appropriate tariff for preliminary prevention under section 24 before making a final decision.
- (b) When administering a tariff for preliminary prevention, the maximum period to administer *[the tariff]* may only be 100 days.

Chapter (8)

Making a decision on a safeguard measure, and implementation

Making a decision on a safeguard measure

26. The investigation team shall, after investigating within the specified period, submit the final investigation result and suggestions to the Committee through the Administration Department.
27. The Committee shall terminate a preliminary safeguard measure if it finds that there is no serious injury, no threat of a serious injury, or no increased import.
28. The Committee may apply one of the following safeguard measures or both of them in order to control an investigated product if it finds that there is an actual increase in imports and a serious injury (deriving from the increase), or a threat to do so has been made:
- (a) Collecting a preventive tariff at the specified rate
- (b) Restricting the import quantity
29. The Committee, under section 28, may apply a safeguard measure with the required condition only in order to rebuild the businesses of domestic producers and to prevent and remedy their injury.



Restricting the import quantity

30. The Committee may specify a restricted quantity which is not lower than the average quantity of the investigated product which has been imported into the country in the last three years if it finds that there is sufficient reason to prevent or remedy an injury under section 29. However, the Committee may restrict the import quantity to a number that is lower than this average, should it find valid evidence that such a process is necessary to prevent serious grievances or threat thereof.
31. The Committee shall -
 - (a) Provide a maximum quota for each country that exports the investigated good into Myanmar (should the number of countries which do so be greater than 1)
 - (b) Discuss and obtain the agreement of all countries involved, when dividing the quotas mentioned in Subsection 31(a).
32. If the Committee does not obtain an agreement under section 31, it shall specify a restricted quantity depending on the total quantity or the ratio of an import that was sold in the last three years in Myanmar by the above-mentioned countries.
33. The Committee shall not apply a safeguard measure for an investigated product if it is imported from developing countries to Myanmar and it fulfils one of the following conditions:
 - (a) The import quantity from the developing country represents a share which is not higher than 3 percent of the total quantity of the import in Myanmar.
 - (b) The import quantity from all developing countries represents a share which is not higher than 9 percent of the total quantity of the import in Myanmar.

Refunding customs duty for preliminary prevention

34. The relevant department shall, without delay, refund customs duty for preliminary prevention if the Committee makes one of the following decisions:
 - (a) Decision to refund the difference if the tariff for prevention after the final investigation is lower than the collected customs duty for preliminary prevention.
 - (b) Decision to refund the collected customs duty for preliminary prevention if there is a reason to terminate a safeguard measure under section 27.
 - (c)



Chapter (9)

Notifying and requesting information

Notifying

35. The Administration Department shall, within a specified timeframe, not only notify the following decisions of the Commission to the applicant and associated parties, but also announce it to the public :
 - (a) Notify, to the applicants and concerned parties, a decision to or not to conduct an investigation and if deciding to conduct one, to notify them of the start of said investigation.
 - (b) Notify, to the applicants and concerned parties, a decision to stop an investigation
 - (c) Notify them of preliminary investigations
 - (d) Notify a decision in connection with administering tariffs for preliminary prevention
 - (e) Notify a decision on the application, extension or termination of a safeguard measure.
 - (f) Notify a final decision based on reassessments
36. The Committee shall notify, to the World Trade Organization and the Committee on Safeguards without delay, a final decision in connection with the start of an investigation and the application, extension or termination of a safeguard measure.
37. If necessary, the Committee may request, through the embassy of the relevant member state or in another way agreed between the relevant member states, evidence regarding an investigation from a foreign exporter, producer and government of the relevant member state.
38. The foreign exporter, producer and government of the relevant member state shall reply to the request under section 37 to the Committee directly, within 30 days after having received the notice or within an extension period permitted by the Committee.
39. The concerned parties shall submit facts and evidence as a summary if the investigation team requests confidential facts and evidence. If they fail to submit, they shall provide a good reason.



Chapter (10)

Period for applying a safeguard measure, reduction and review

Application period

40. The application period may only be as long as is required to rebuild the businesses of domestic producers and prevent and remedy its injury under section 28.
41. When a safeguard measures is being applied:
 - (a) The application period with regard to a type of product shall be four years at most.
 - (b) The application period with regard to a type of product under section (a) and an extension period shall be ten years at most.
 - (c) If the application period of a safeguard measure for a product is finished and it is desired to re-apply the measure, a minimum of two years must have passed until the safeguard measure may be applied again.
42. A domestic producer must -
 - (a) When applying for an extension of a safeguard measure under section 28, ensure that the application is filed to the Committee, six months before the original safeguard expires. A photocopy of the application must be sent to the Administration Department.
 - (b) When filing an application under subsection 42 (A), provide evidence of efforts to improve one's business.
43. When deciding upon an extension, the investigation team must make its deliberations in accordance to this law and submit it to the Committee.
44. The Committee can provide an extension to the safeguard period under section 42. However, the safeguard measures exercised within this extension period must not exceed the measures already implemented in the original period.
45. The Committee may apply a safeguard measure with a duration of 180 days or less again to an import in the following circumstances:
 - (a) At least one year has passed since the introduction of the safeguard measure.
 - (b) The safeguard measure has not been applied more than twice to the same product within five years from the date on which the safeguard measure was introduced.



46. With regard to a safeguard measure whose duration is more than three years, the investigation team shall, from time to time, report a review to the Committee as to whether the safeguard measure should continue to be applied, reduced or terminated.
47. With regard to a safeguard measure whose duration is more than three years, the investigation team shall, from time to time, report a review to the Committee as to whether the safeguard measure should continue to be applied, reduced or terminated.
48. If the committee decides to either terminate or reduce the safeguard measure or finds it no longer necessary, the Ministry shall enact this decision either through an announcement or directive and shall notify the inland revenue department as well as other government organizations and concerned bodies.
49. When a safeguard measure under section 25 and 29 is applied among member states, there shall be no discrimination between exports from any country of origin except the concession that is provided to developing countries.

Chapter (11) **Miscellaneous**

50. The concerned parties shall submit the relevant evidence regarding a matter being investigated to the Committee in accordance with the procedures during the investigation period if the matter affects a public interest.
51. The Committee has the authority to reject any falsified information, documents and evidence submitted by the concerned parties and, where necessary, provide suitable punitive measures for doing so.
52. The concerned parties shall act in accordance with the procedures issued, in application of a safeguard measure, by the Ministry of Planning and Finance regarding a preventive tariff and by the Ministry regarding the restriction of an import.
53. Any related party concerned with the investigation may make an appeal, within 30 days of its announcement, regarding the safeguard measures and the preventative tariff.
54. The committee must instruct the required departments to enact the decision of the Appellate board concerning taxation.
55. Administering a tariff under section 25(a) and 28(a), and refunding a tariff under section 34 shall be done in compliance with the regulations and procedures of the relevant tax law and customs law.



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56. The Ministry must ensure that those implementing this law will have the opportunity to obtain the necessary legal knowledge and procedures.
57. The Ministry, when carrying out investigations and reassessments, must enact the necessary directives and procedures to obtain the funds necessary to carry out these tasks from the applicants.
58. The Ministry must form the Administration Department to carry out the office and clerical work of the Committee and the Investigation Team.
59. The Ministry must provide the costs incurred by the Committee and the Investigation Team from its annual budget.
60. The Ministry must obtain the National Government's agreement when setting the salaries, bonuses and allowances of its non-civil servant Committee members.
61. When implementing this law -
 - (a) The Ministry may enact the necessary laws, rules and regulations with the Union Government's agreement.
 - (b) The Ministry, the Ministry of Planning, Finance and Industry and the Committee may enact the necessary announcements, decrees and directives.

I hereby sign according to the constitution of the Republic of the Union of Myanmar.

(Signed) Win Myint
President
Republic of the Union of Myanmar



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