Unofficial translation

Lao People's Democratic Republic
Peace Independence Democracy Unity Prosperity

Ministry of Industry and Commerce | No. 0464/MOIC.FTPD
Vientiane Capital, 12 May 2020

Guidelines

On the Implementation of Articles 10, 11 and 18 of the Law on Anti-Dumping and Countervailing Measures of Exporting Countries No. 65 / NA, dated 14 June 2019

- Pursuant to the Law on Anti-Dumping and Countervailing Measures for Exporting Countries No. 65/NA, dated 14 June 2019;
- Pursuant to the Decree on the Organization and Operation of the Ministry of Industry and Commerce No. 230/PM, dated 24 July 2017;
- Pursuant to the proposal of the Department of Foreign Trade Policy No. 0014/FTPD, dated 10 January 2020;

To implement the contents of Articles 10, 11 and 18 of the Law on Anti-Dumping and Countervailing Measures for Exporting Countries No. 65/NA, dated 14 June 2019 in detail, adapt to the actual situation in each period and ensure uniformity in the implementation to be effective and efficient.

Minister of Industry and Commerce has issued the Guideline:

I. Regular pricing

Normal pricing in the absence of a similar sale of goods in the domestic market of the exporting country or the sale of such goods cannot be compared because the market in the exporting country is specific or there is a distribution of goods in the amount of less than five percent of the goods imported for sale in the Lao PDR as specified in Article 10 of the Law shall be as follows:

1. **Export prices of similar goods to third countries where the goods are imported are considered if there is reason to believe that the price represents the market price of the exporting country.**

Consider the volume of goods exported from the third country to the third country rather than the volume exported to other countries, the goods exported to that country must be similar to the goods exported to Lao PDR; Or the Investigative Committee may consider additional factors as it deems appropriate.

2. **Prices are calculated based on the cost of production of the country of origin, plus administrative, sales and other costs, as well as profits incurred.**

Prices shall be calculated on the basis of the accounting records of the exporter or manufacturer considered during the investigation, which shall be consistent with generally accepted accounting principles in the exporting country and reasonably reflect the costs associated with production and distribution.

II. Anti-Dumpling rate formula

Determining the dumping rate as defined in Article 11 of the Law is as follows:

1. **Anti-Dumpling rate formula**

Anti-Dumpling rate = (differences ÷ export price) x 100

2. **The differences calculation formula**

To calculate the difference between the normal price and the export price traded at the same level and duration, there are three comparison methods as follows:

1) **Comparison between the average price of pod weight and the average export price of pod weight**

The average price of the weight of the pods is compared to the average export price of the weight of the pods, which is the average price of the quantity and the number of times a consignment or export is considered due to the fact that each consignment or export has a different quantity and that the resulting quantity is different from the normal price or each export price, which is calculated as follows:

Difference = average price of pod weight - average export price of pod weight

To calculate the average price of a pod weight, multiply each price by the amount of pod weight, plus the price of the pod weight together and divide by the total amount as follows:

Average price of pod weight = ((price 1 × volume 1) + (price 2 × volume 2) + (price 3 × volume 3)] ÷ [(volume 1 + volume 2 + volume 3)]

2) **Comparison between the normal price and the export price of each trade transaction**

The regular price for each transaction made within the exporting country is compared to the export price for each export transaction which has the formula as following:

Difference = regular price of each transaction - export price of each transaction

3) **Comparison between the average price of pod weight and the export price of each trade transaction**

Compare in case the export price differs between the buyer, the region or the time of export which equal the average price of pod weight is compared to the export price of each export transaction, which has the formula as following:

Difference = Normal price of weight pod - export price of each transaction

III. How to determine the severity of the damage

Determining the serious damage to domestic producers from the export or subsidy of the exporting country shall be based on the clear and continuous change of the three pieces of evidence as stipulated in Article 18 of the law comparing retrospective data not exceeding five years as the following:

1. **The volume of imports of marketed or subsidized goods of exporting countries has increased steadily or comparatively compared to production or consumption in Lao PDR.**

Consider from the evidence and data on the changes in import that there is a clear increase in the volume of import or a change in the volume of import in proportion to the increase in the volume of production of goods or consumption within Lao PDR.

If the outcome of the hearing falls into any of the following cases, it shall not be deemed to be substantial and the Inquiry Committee shall cancel the investigation:

1) The total volume of dumpling imported goods is less than three percent of the total import of similar goods into Lao PDR;
2) The total volume of imported goods from each country is less than seven percent of the total volume of imports of similar goods;
3) The total volume of subsidized imports of exporters of developing countries originating from WTO member countries account for less than four percent of similar imports;
4) The volume of subsidized imports of exporting countries from each country together account for less than nine percent of the total imports of similar goods.

2. **Impact of marketed or subsidized goods of exporting countries on similar commodity prices in Lao PDR, which causes local producers to reduce prices, be under pressure or recall goods at a loss.**

1) **The discount** is to compare between the import price of a dumped or subsidized product of the exporting country with a similar retail price of a local producer, which

must be at the same trade level. Prices in the same trading range have two examples as the following:

Example 1: If the import price of a commodity is a dumped or subsidized by the exporting country, which is set as the factory price, it must be compared with the factory price of the domestic manufacturer as well.

Example 2: If the import price of a commodity is dumped or subsidized by the exporting country, which is set as the price including shipping and insurance, it must be compared with the price including shipping and insurance of the local manufacturer, which cannot be compared with the factory price and shipping cost.

2) **Price pressure is** based on the fact that the prices of similar products of domestic producers are declining to be able to compete with products that are dumped or subsidized by exporters.
3) **The sale of goods at a loss** is to be considered whether the importation of goods that have been dumped or subsidized by the exporting country. As a result, the price of similar products of domestic producers could not be increased or compared to the cost of domestic producers that were found to be under-selling or unable to sell at higher prices in line with the rate of increase in cost.

3. The effect of the product from the dumpling or subsidy of the exporting country on the domestic producer.

Consider the actual effects or trends that have a negative impact on the following factors, which must consider the impact in the overview as following:

1) Impact on sales balance should be considered from the decrease in quantity or value of sales of similar products produced domestically, which is calculated as follows:

Impact on sales balance = [(quantity or sales value of the year under investigation - quantity or last year's sales value) ÷ (quantity or value of inventory of the previous year)] x 100

The method of calculating the quantity or value of the sale is as follows:

Quantity of sale value = quantity of goods produced - goods remaining
Cost of goods sold = quantity of goods sold x price per unit

2) Impact on profit is considered from the decrease in profit from production and distribution of similar products of domestic producers, which has calculation formula as the following:

Impact on Profit = [(Profit of the year under investigation - Profit of the previous

year) ÷ (Profit of the previous year)] x 100

The methods for calculating profit or loss are as follows:

Profit = [(Cost of sales) - (Production cost + administrative cost)]

3) Impact on productivity is considered from the decrease in the volume of similar products produced domestically, which has calculation formula as the following:

Impact on Productivity = [(Productivity of the year under investigation - Productivity of the previous year) ÷ (Productivity of the previous year)] x 100

4) **The impact on market share** can be seen from the declining market share of domestic producers due to changes in the market share of the goods that have been dumped or subsidized by the exporting countries to the domestic market compared to the market share calculated last year, which has calculation formula as the following:

Impact on market share = market share of the year under investigation - market share of the previous year

Here is how to calculate market share:

Market share ratio = (value of sales of imported goods ÷ value of sales of all domestic goods) x 100

5) is determined by the decrease in production efficiency of similar products of local producers, which has the following calculation formula:

Productivity = [(Productivity of the year under investigation - Productivity of the previous year) ÷ (Productivity of the previous year)] x 100

The methods for calculating of productivity as follows:

Productivity = total output ÷ inputs

Production factors include materials, labor, and other costs involved in the production process.

6) **The impact on return on investment** is considered from the decrease in the rate of return of producers who received investment in production and distribution of similar products of domestic producers compared to the rate of return of the previous year, which is calculated as follows:

Return on investment = return on investment of the year under investigation - return on investment of the previous year

The methods for calculating of return on investment is as follows:

Return on investment ratio = [(Investment income - Investment expenditures) ÷ (Investment expenditures)] x 100

7) **The impact on production capacity** is considered from the decrease in the capacity utilization rate of similar products of domestic producers compared to the capacity utilization rate of the previous year, which has calculation formula as the following:

Impact on production capacity = Capacity utilization rate of the year under investigation - Capacity utilization rate of the previous year

The method of calculating capacity utilization rate is as follows:

Capacity utilization rate = (actual output ÷ maximum output capacity) x 100

The method of calculating the maximum impact on production capacity is as follows:

Maximum output capacity = machine working hours ÷ Real time used in the production of one unit

8) **Factors affecting domestic prices** is considered from the decrease in the retail price of similar domestic goods from the prices of dumped or subsidized goods by the exporting countries that export domestically.

9) **Impact on cash flow** is considered from the decrease in total cash flow from the business activities of domestic producers, which has the following calculation formula:

Impact on cash flow = [(Total cash flow from business activities of the year under investigation - Total cash flow from business activities last year) ÷ (Total cash flow from business activities last year)] x 100

The method of calculating total cash flow from business activities is as follows:

Total cash flow from business activities = profit + depreciation + volatility of working capital

Current working capital is as follows:

Revolving capital = revolving assets - current liabilities

Current turnover = current year revolving fund - last year's revolving fund

Depreciation refers to the cost less the value of the fixed assets used in the business operations of domestic producers, such as buildings, equipment, and machinery, which are high value and long service life.

10.) **Impact on inventory** is considered from the increase in the quantity of similar goods in the inventory of domestic producers, which has the following calculation formula:

Impact on inventory = (quantity of inventory of the year under investigation – quantity of inventory of the previous year) ÷ (quantity of inventory of the previous year)] x 100

The method of calculating the quantity of goods in the inventory is as follows:

Inventory = Quantity of goods produced - Quantity of inventory

11.) **The impact on employment** is considered from the decrease in the amount of labor in production and the labor used in the administrative work of similar products of domestic producers because the domestic producers trying to reduce production costs, which has the following calculation formula:

Employment = [(Employment volume of the year under investigation - Employment volume of the previous year) ÷ (Employment volume of the previous year)] x 100

The method of calculating the amount of employment is as follows:

Employment volume = production labor + administrative labor

12.) **Impact on wages** is considered the reduction of wages in the production and administration of similar goods by local producers, which has the following calculation formula:

Impact on wages = [(Wages of the year under investigation - Wages of the previous year) ÷ (Wages of the previous year)] x 100

The method of calculating the amount of employment is as follows:

Wages = daily wages in production or administration x number of working days

13.) Impact on business growth rate is considered from the decrease in revenue from doing business as domestic producers are not able to increase sales volume in proportion to the increase in domestic consumption due to the increase in the volume of goods that are dumped or subsidized by the exporting countries, the formula is as follows:

Impact on growth rate = [(revenue of the year under investigation - last year's revenue) ÷ (last year's revenue)] x 100

14.) Impact on the ability to increase capital or investment is considered from the financial statements if it is seen that domestic producers continue to lose capital, which is an obstacle to raising capital or investment.

Impact on the ability to increase capital or investment = [(Results of losses of the year under investigation - Results of losses of the previous year) ÷ (Results of losses of the previous year)] x 100

The calculation method for loss is as follows:

Loss result = [(production cost + administrative expenditure) - (sales value)]

IV. Implementation

The Department of Foreign Trade Policy, Ministry of Industry and Commerce to coordinate with relevant agencies in the implementation of this guideline to be highly effective.

This instruction is effective from the date of signing and has been posted on the Lao Official Gazette for fifteen days.

Minister
(Signed and sealed)

Khemmani Pholsena