

**NOTIFICATIONS OF LAWS, REGULATIONS AND
ADMINISTRATIVE PROCEDURES RELATING
TO SAFEGUARD MEASURES**

INDONESIA

The following communication, dated 20 December 2011, is being circulated at the request of the Delegation of Indonesia.¹

Pursuant to Article 12.6 of the WTO Agreement on Safeguards, the Republic of Indonesia hereby wishes to notify the Committee on Safeguards its laws and regulations relating to Safeguard Measures.

This notification includes regulations on Safeguard Measures as stipulated in *Government Regulation 34 of 2011 concerning Antidumping Measure, Countervailing Measure, and Safeguard Measure* ("Government Regulation 34"), which are Article 1 items 3, 10, 11, 12, 15, 16, 18, 20, 25, 27, 28, and 30, Articles 70-90, Articles 92-93, Articles 95-103, and the respective elucidations.

The translation of the said Government Regulation 34 into English language is unofficial. In the event that there is a difference or conflict in understanding or interpretation between the *Bahasa Indonesia* and the English language version, therefore the *Bahasa Indonesia* version shall prevail.

With the entry into force of the Government Regulation 34, the previous regulations on Safeguard Measures as stipulated in *Presidential Decree Number 84 of 2002 concerning the Safeguard of the Domestic Industry Against the Impact of Increased Imports* (G/SG/N/1/IDN/2), is duly revoked and shall cease to be in force. The Indonesian Safeguard Committee remains as the competent authority on Safeguard Measures.

We would like to invite eligible WTO members to submit views, comments, and to request opportunity for consultation. All views, comments, and request for consultation shall be made in writing and submitted to the following address:

**INDONESIAN SAFEGUARDS COMMITTEE
(KOMITE PENGAMANAN PERDAGANGAN INDONESIA - KPPI)**

Jl. M.I. Ridwan Rais No.5, Building I, 5th floor, Jakarta 10110

Telephone / Facsimile: (62-21) 385 7758

E-mail: kppei-depdag@yahoo.com

¹ The text of the Regulation in the original language has been submitted electronically to the Secretariat. In order to view this document, please contact Ms Budd (hilary.budd@wto.org) or Ms Naville (delphine.naville@wto.org) from the Rules Division.

UNOFFICIAL ENGLISH TRANSLATION

This is an unofficial English translation of the relevant provisions of the Government Regulation Number 34 of 2011 concerning Antidumping Measure, Countervailing Measure, and Safeguard Measure. In the event that there may be different or conflicting interpretation of any of the Articles, Paragraphs or Elucidations as stipulated in the original and the translated versions, the Indonesian language version shall prevail.

GOVERNMENT REGULATION OF THE REPUBLIC OF INDONESIA

NUMBER 34 OF 2011

**CONCERNING
ANTIDUMPING MEASURE, COUNTERVAILING MEASURE,
AND SAFEGUARD MEASURE**

In consideration of:

- a. whereas in order to implement the regulation stipulated in Law Number 7 of 1994 concerning the Ratification of the Agreement Establishing the World Trade Organization and Article 23D Law Number 10 of 1995 concerning Customs as amended by Law Number 17 of 2006, it is necessary to revitalize the regulation on antidumping measure, countervailing measure, and safeguard measure;
- b. whereas based on the consideration mentioned in point a, it is deemed necessary to enact Government Regulation concerning Antidumping Measure, Countervailing Measure, and Safeguard Measure;

In view of:

1. Article 5 paragraph (2) of the 1945 Constitution of the Republic of Indonesia;
2. Law Number 7 of 1994 concerning the Ratification of the Agreement Establishing the World Trade Organization (State Gazette of the Republic Indonesia Year 1994 Number 57, Supplementary State Gazette Number 3564);
3. Law Number 10 of 1995 on Customs (State Gazette of the Republic Indonesia Year 1995 Number 75, Supplementary State Gazette of the Republic Indonesia Number 3612) as amended by Law Number 17 of 2006 (State Gazette of the Republic Indonesia Year 2006 Number 93, Supplementary State Gazette Number 4661);

HAS DECIDED TO

Enact:

**GOVERNMENT REGULATION OF THE REPUBLIC OF INDONESIA CONCERNING
ANTIDUMPING MEASURE, COUNTERVAILING MEASURE, AND SAFEGUARD MEASURE.**

**CHAPTER I
GENERAL PROVISIONS
Article 1**

In this Government Regulation:

3. Safeguard Measure in Trade, hereinafter referred to as Safeguard Measure, shall be understood to mean a measure imposed by the government to remedy Serious Injury or to prevent Threat of Serious Injury suffered by a Domestic Industry resulting from imports in such increased, either in absolute and relative terms, to Like Products or Directly Competitive Products.
10. Like Products shall be understood to mean domestically produced products which are identical or alike in all aspects to the imported products or products which have characteristics closely resembling to those of the imported products.
11. Directly Competitive Products shall be understood to mean domestically produced products which in its usage can substitute the Products Under Investigation.
12. Quota shall be understood to mean a quantitative restriction on number of products that can be imported imposed by the government.
15. Serious Injury shall be understood to mean a significant overall impairment in the position of a Domestic Industry.
16. Threat of Serious Injury shall be understood to mean serious Injury that is clearly imminent to a Domestic Industry based on facts, and not merely on allegation, conjecture, or prediction.
18. Domestic Industry, for the purpose of Safeguard Measure, shall be understood to mean producers as a whole of the Like Products or the Directly Competitive Products operating within the territory of Indonesia, or whose collective production output of the said products constitutes a major proportion of the total domestic production of the those products.
20. Duty shall be understood to mean a charge collected by the state, as imposed on imported products.
25. Safeguard Duty shall be understood to mean a charge collected by the State to remedy Serious Injury or to prevent Threats of Serious Injury suffered by Domestic Industry resulting from imports in such increased, of imported products of the Like Products or the Directly Competitive Products with the purpose of facilitating the aforesaid Domestic Injury to undergo necessary adjustment.
27. Products Under Investigation, for the purpose of Safeguard Measure, shall be understood to mean imported product in such increased quantities, which is under investigation, as stated in the description and specification of the products and tariff code stipulated in the Book of Indonesian Import Duty.
28. Minister shall be understood to mean the minister in charge of trade affairs.
30. The Indonesian Safeguard Committee, hereinafter referred to the acronym "KPPI", shall be understood to mean the committee which is tasked to undertake investigation in relation to Safeguard Measure.

CHAPTER IV SAFEGUARD MEASURE

Part One Forms of Safeguard Measure

Article 70

- (1) In addition to import duty, a Safeguard Measure can be imposed on imported products, provided:
- a. there was an increased volume of import, in absolute or relative terms, of a product that is equivalent with the Like Product or the Directly Competitive Product; and
 - b. the increased volume of import as mentioned in letter a has caused Serious Injury or Threat of Serious Injury in the position of a Domestic Industry.
- (2) A Safeguard Measure as mentioned in paragraph (1) may be in the form of Safeguard Duty and/or Quota as imposed.
- (3) The rate of Safeguard Duty as mentioned in paragraph (2) shall not exceed the amount needed to remedy the Serious Injury or to prevent the Threat of Serious Injury in the position of a Domestic Industry.
- (4) The amount of Quota as mentioned in paragraph (2) shall not be less than the average quantity of imports during the last three years, except when there is a reasonable ground that a lower Quota is needed to remedy the Serious Injury or to prevent the Threat of Serious Injury in the position of a Domestic Industry.
- (5) The implementing regulation concerning the imposition of Quota shall be regulated further in Decree of Minister of Trade.

Part Two Investigation

Article 71

- (1) A Safeguard Measure as mentioned in Article 70 can be imposed only after KPPI has conducted an investigation.
- (2) An investigation by KPPI as mentioned in paragraph (1) on Products Under Investigation can be carried out based on an application by a Domestic Industry or on KPPI's own initiative.

Article 72

- (1) The Domestic Industry and/or other domestic parties may submit with KPPI a written application as mentioned in Article 71 paragraph (2) to initiate an investigation with respect to the imposition of Safeguard Measure.
- (2) The application as mentioned in paragraph (1) shall contain *prima facie* evidence and supported by proper documentation showing the existence of:
- a. increased volume of import of products equivalent with the Like Product or the Directly Competitive Product; and

- b. Serious injury or Threat of Serious Injury.
- (3) Documents as mentioned in paragraph (2) shall consist of confidential as well as non-confidential data.
- (4) Documents that are declared confidential may not be disclosed to other parties without special permission from the person who provides such documents.
- (5) No later than 20 (twenty) working days since the date that a completed application has been duly received by KPPI as mentioned in paragraph (1), and based on a thorough examination, KPPI shall render a decision whether:
- a. to reject the said application, in cases where the application does not fulfill the requirements mentioned in paragraph (2); or
 - b. to admit the said application and to determine the initiation of an investigation, in cases where the application fulfills the requirements as mentioned in paragraph (2).
- (6) The implementing regulation concerning the procedure for the submission of application as mentioned in paragraph (1) shall be regulated further in Decree of Minister of Trade.

Article 73

An investigation based on KPPI's own initiative as mentioned in Article 71 paragraph (2) can only be initiated if KPPI has in possession sufficient *prima facie* evidence on the existence of Serious Injury or Threat of Serious Injury in the position a Domestic Industry resulting from increased volume of imported products.

Article 74

- (1) An investigation with respect to the imposition of a Safeguard Measure is initiated at the time of its public notice.
- (2) Beside public notice as mentioned in paragraph (1), KPPI shall inform the initiation of the investigation to:
- a. the petitioner as mentioned in Article 72 paragraph (1) and the associations of importers, in cases where the investigation is conducted based on an application; or
 - b. the relevant Domestic Industry and associations of importers, in cases where the investigation is conducted based on KPPI's own initiative.
- (3) An investigation ends on the date of the final report on the result of investigation.

Article 75

In light of the investigation as mentioned in Article 71, KPPI shall evaluate all relevant factors of an objective and quantifiable nature having a bearing on the condition of the Domestic Industry.

Article 76

- (1) If during the course of investigation no evidence was found of increased volume of imports that has caused Serious Injury or Threat of Serious Injury, KPPI shall promptly terminate the investigatory proceeding and submit report the Minister.

- (2) The termination of the investigation shall be notified to the public immediately.
- (3) Beside public notice as mentioned in paragraph (2), KPPI shall notify the termination of investigation to:
 - a. the petitioners as mentioned in Article 72 paragraph (1) and the associations of importers, in cases where the investigation is conducted based on an application; or
 - b. the relevant Domestic Industry and the associations of importers, in cases where the investigation is conducted based on KPPI's own initiative, accompanied with reasons of termination.

Article 77

If the final report on the result of the investigation contain evidences of the existence of increased volume of imports that have caused Serious Injury or Threat of Serious Injury, KPPI shall submit a recommendation to the Minister for the imposition Safeguard Measure.

Part Three

Evidence and Information

Article 78

- (1) In conducting and during an investigation, KPPI may require the provision of information from the following parties:
 - a. the petitioners as mentioned in Article 72 paragraph (1) or the Domestic Industry;
 - b. the importers; and
 - c. other relevant interested parties.
- (2) Information as mentioned in paragraph (1) shall be accompanied by confidential and non-confidential documents.
- (3) Information or documents that are declared confidential may not be disclosed to other parties, without special permission from the person who provides such information or documents.
- (4) The petitioners or the Domestic Industry, importers and other relevant interested parties as mentioned in paragraph (1) shall provide KPPI with written explanation along supporting evidences within a maximum period of 30 (thirty) working days since the date of the written request for such information

Article 79

- (1) During the course of investigation, KPPI shall conduct hearing for the purpose of providing opportunities to exporters, exporter's producers, the petitioners or the Domestic Industry, importers, the government of particular exporting countries and other interested parties, to present evidences, views and responses.
- (2) Evidences, views and responses as mentioned in paragraph (1) shall be submitted in writing by exporters, exporter's producers, the petitioners or the Domestic Industry, importers, the government from particular exporting countries and other interested parties within a maximum period of 5 (five) calendar days since the date of the hearing(s).

Part Four
Provisional Safeguard Measure
Article 80

- (1) In circumstances where delay in the imposition of the Safeguard Measure would cause Injury to the Domestic Industry which it would be difficult to repair, during the course of investigation KPPI may give recommendation the Minister to impose a provisional Safeguard Measure.
- (2) The provisional Safeguard Measure as mentioned in paragraph (1) shall be in the form of provisional Safeguard Duty.
- (3) The payment of the Provisional Safeguard Duty is carried out in cash at the amount equal to the rate of the provisional Safeguard Duty.

Article 81

- (1) To secure relevant considerations in light of national interests, the Minister shall convey KPPI's recommendation as mentioned in Article 77 to ministers and/or heads of non-ministerial governmental institutions that are relevant to the Products Under Investigation.
- (2) The ministers and/or the heads of non-ministerial governmental institutions as mentioned in paragraph (1) shall provide its considerations within a maximum period of 14 (fourteen) working days since the date of the Minister's letter requesting for such considerations.
- (3) If during the period of 14 (fourteen) working days as mentioned in paragraph (2), the ministers and/or the heads of non-ministerial governmental institutions do not provide any consideration whatsoever, the said ministers and/or the heads of non-ministerial governmental institutions shall be deemed to have agreed with KPPI's recommendations.
- (4) Based on KPPI's recommendation as mentioned in Article 77, and taking into account the provisions under paragraph (2) and paragraph (3), the Minister shall render a decision on:
 - a. the amount of the provisional Safeguard Duty; and
 - b. the duration for the imposition of the provisional Safeguard Duty.
- (5) The duration of the imposition of the provisional Safeguard Duty mentioned in paragraph (4) letter b shall not exceed 200 (two hundred) days since the date of its imposition.
- (6) The Minister shall convey the decision as taken under paragraph (4) to the minister in charge of finance within a maximum period of 30 (thirty) working days since date of KPPI's recommendation.
- (7) Based on the Minister's decision as mentioned in paragraph (4), the minister in charge of finance shall issue a decree containing tariff rate and the duration for the imposition of the provisional Safeguard Duty within a maximum period of 30 (thirty) working days since the date of the letter from the Minister was received by the minister in charge of finance.
- (8) The decision as mentioned in paragraph (7) shall take into account the convenience in conducting the collection of the provisional Safeguard Duty.
- (9) The time period of the imposition of the Provisional Safeguard Duty as mentioned in paragraph (4) letter b shall be calculated in the overall period of Safeguard Measure, including any extension thereof.

Article 82

(1) KPPI shall notify the imposition of provisional Safeguard Measure as mentioned in Article 81 paragraph (7) to the petitioners or the Domestic Industry, and the associations of importers.

(2) The implementing regulation concerning the procedure of notification as mentioned in paragraph (1) shall be regulated further in Decree of Minister of Trade.

Article 83

(1) If the final report on the result of the investigation contain evidences of the existence of increased imports that have caused Serious Injury or Threat of Serious Injury in the position of the Domestic Industry, importers that have already made the payment as mentioned in Article 80 paragraph (3) can file a written request for refund of the provisional Safeguard Duty.

(2) The request for refund as mentioned in paragraph (1) shall be submitted to the minister in charge of finance.

(3) The application as mentioned in paragraph (2) shall be determined within a maximum period of 30 (thirty) working days since the date of the receipt of such application.

(4) The implementing regulation concerning the procedure for refund of Safeguard Duty as aforementioned, shall be regulated further in decree of the minister in charge of finance.

Part Five **Imposition of Safeguard Measure** **Article 84**

(1) To secure relevant considerations in light of national interests, the Minister shall convey KPPI's recommendation as mentioned in Article 77 to ministers and/or heads of non-ministerial governmental institutions that are relevant to the Products Under Investigation.

(2) The ministers and/or the heads of non-ministerial governmental institutions as mentioned in paragraph (1) shall provide its considerations within a maximum period of 14 (fourteen) working days since the date of the Minister's letter requesting for such considerations.

(3) If during the period of 14 (fourteen) working days as mentioned in paragraph (2), the ministers and/or the heads of non-ministerial governmental institutions do not provide any consideration whatsoever, the said ministers and/or the heads of non-ministerial governmental institutions shall be deemed to have agreed with KPPI's recommendations.

(4) Based on KPPI's recommendation as mentioned in Article 77, and taking into account the provisions under paragraph (2) and paragraph (3), the Minister shall render a decision on:

- a. the amount of the Safeguard Duty and/or Quota; and
- b. the duration for the imposition of the Safeguard Duty and/or Quota.

(5) The Minister shall convey the decision as taken under paragraph (4) to the minister in charge of finance within a maximum period of 30 (thirty) working days since date of KPPI's recommendation.

(6) In cases where the Safeguard Measure is the imposition of Safeguard Duty, the minister in charge of finance shall issue a decree containing tariff rate and the duration for the imposition of the Safeguard Duty in accordance with the decision of the Minister as mentioned in paragraph (4) within a maximum period of 30 (thirty) working days since the date of the letter from the Minister was received by the minister in charge of finance.

(7) The decision as mentioned in paragraph (6) shall take into account the convenience in conducting the collection of the provisional Safeguard Duty.

(8) KPPI shall notify the imposition of Safeguard Measure to the petitioners or the Domestic Industry, and the associations of importers.

(9) The implementing regulation concerning the procedure of notification as mentioned in paragraph (8), shall be regulated further in decree of the Minister of Trade.

Article 85

In circumstances where there is a difference between the applicable rate of provisional Safeguard Duty as mentioned in Article 81 paragraph (7) and the rate of Safeguard Duty as mentioned in article 84 paragraph (6), the following prevails:

- a. the excess in the payment of such provisional Safeguard Duty is not subject to any request for refund; or
- b. the deficit in the payment of such provisional Safeguard Duty shall not be claimed against importers.

Article 86

(1) Safeguard Measure shall only be applied for such period of time as may be necessary to remedy or to prevent Serious Injury or Threat of Serious Injury, and to facilitate adjustment needed for the Domestic Industry suffering from Serious Injury or Threat of Serious Injury.

(2) The period of imposition period of the Safeguard Measure as mentioned in paragraph (1) shall not exceed 4 (four) years.

(3) The period of imposition period of the Safeguard Measure as mentioned in paragraph (2) can be extended for an additional period of 4 (four) years at maximum.

(4) The period of imposition of the Safeguard Measure as mentioned in paragraph (3) may be extended for an additional period of 2 (two) years at maximum.

Article 87

(1) Should the period of imposition of the Safeguard Measure as mentioned in Article 84 paragraph (6) exceeds 3 (three) years, KPPI shall undertake a review upon the Safeguard Measure as imposed no later than the mid-term of the period of imposition.

(2) In consideration of the result of such mid-term review as mentioned in paragraph (1), KPPI may propose a recommendation to the Minister:

- a. to terminate the imposition of such Safeguard Measure; or
- b. to reduce the rate of Safeguard Duty and/or to increase the amount of Quota.

(3) To secure relevant considerations in light of national interests, the Minister shall convey KPPI's recommendation as mentioned in paragraph (2) to ministers and/or heads of non-ministerial governmental institutions that are relevant to the Products Under Investigation.

(4) The ministers and/or the heads of non-ministerial governmental institutions as mentioned in paragraph (3) shall provide its considerations within a maximum period of 14 (fourteen) working days since the date of the Minister's letter requesting for such considerations.

(5) If during the period of 14 (fourteen) working days as mentioned in paragraph (4), the ministers and/or the heads of non-ministerial governmental institutions do not provide any consideration whatsoever, the said ministers and/or the heads of non-ministerial governmental institutions shall be deemed to have agreed with KPPI's recommendations.

(6) Based on KPPI's recommendation as mentioned in paragraph (2), and taking into account the provisions under paragraph (4) and paragraph (5), the Minister shall render a decision:

- a. to terminate the imposition of Safeguard Measure; or
- b. to reduce the rate of Safeguard Duty and/or to increase the level of Quota.

(7) The Minister shall convey the decision as taken under paragraph (6) to the minister in charge of finance within a maximum period of 30 (thirty) working days since date of KPPI's recommendation.

(8) Based on the Minister's decision as mentioned in paragraph (7), the minister in charge of finance within a maximum period of 30 (thirty) working days since the date of the letter from the Minister was received by the minister in charge of finance, shall issue a decree pertaining:

- a. the termination of the imposition of Safeguard Measure; or
- b. the rate of the Safeguard Duty.

(9) The decision as mentioned in paragraph (8) shall take into account the convenience in conducting the collection of the Safeguard Duty.

(10) The implementing regulation concerning the procedure to undertake mid-term review as mentioned in paragraph (1), shall be regulated further in decree of the Minister of Trade.

Article 88

(1) In circumstance in which the petitioners request for an extension in the imposition of Safeguard Measure, such a request shall be submitted with KPPI within a reasonable period of time before the expiry date of the Safeguard Measure.

(2) If circumstances in which the petitioners request for an extension as mentioned in paragraph (1), KPPI shall undertake an investigation to prove whether or not such an extension may still be necessary.

(3) KPPI shall recommend an extension of the Safeguard Measure to the Minister, if the extension of such Safeguard Measure is necessary to prevent or to remedy Serious Injury in the position of the Domestic Industry, and during the process of adjustment.

(4) Based on KPPI's recommendation as mentioned in paragraph (3), the provisions of Article 84 shall apply *mutatis mutandis*.

(5) The implementing regulation concerning the procedure to undertake mid-term review as mentioned in paragraph (1), shall be regulated further in decree of the Minister of Trade.

Article 89

(1) Safeguard Measure may be imposed again upon the same imported products after the expiry of 2 (two) years period since the last day of imposition of the Safeguard Measure previously.

(2) Notwithstanding the provisions of paragraph (1), a Safeguard Measure with a duration of 180 days or less may be imposed again to such imported products.

(3) (The imposition of the Safeguard Measure as mentioned in paragraph (2) may only be conducted after the expiry of 1 (one) year period since the expiry of the period of imposition of the previous Safeguard Measure, and shall not be imposed upon the same imported products for more than twice within 5 years time period since the imposition of the Safeguard Measure applicable.

(4) In regards to the re-imposition of Safeguard Measure, the provisions concerning the submission of application, investigation, evidence and information, and the provisions of provisional Safeguard Measure, as well as the imposition of Safeguard Measure as mentioned in Part 2, Part 3, Part 4 and Part 5 shall apply *mutatis mutandis*.

(5) The implementing regulation concerning the re-imposition of Safeguard Measure as mentioned in paragraph (1), shall be regulated further in decree of the Minister of Trade.

Part Six

Imports from Developing Country

Article 90

Safeguard Measure shall not be imposed against the importation product originating in a developing country as long as its share of imports of the Product Under Investigation in the importing member does not exceed 3 per cent, provided that developing country members with less than 3 per cent import share collectively account for not more than 9 per cent of total imports of the Product Under Investigation.

CHAPTER V

NOTIFICATION

Article 92

(1) The Minister shall notify the Committee on Safeguards of the World Trade Organization concerning:

- a. the initiation of an investigation to impose Safeguard Measure;
- b. the imposition of provisional Safeguard Measure; and
- c. the imposition of Safeguard Measure.

(2) The notification concerning the imposition of Provisional Safeguard Measure shall be done before the determination of the Provisional Safeguard Duty.

Article 93

The implementing regulation concerning the submission of notification with the Committee on Antidumping Practices, the Committee on Subsidies and Countervailing Measures, and the

Committee on Safeguards of the World Trade Organization, shall be regulated further in decree of the Minister of Trade.

CHAPTER VI
INVESTIGATING AUTHORITY
Article 95

- (1) By the operation of this Government Regulation, KPPI shall be deemed to be established with the task to handle matters relating to the efforts to recover Serious Injury or to prevent Threat of Serious Injury in the position of Domestic Industry resulting from increased volume of imports.
- (2) KPPI shall be accountable to the Minister.
- (3) In light of its as mentioned in paragraph (1), KPPI undertakes function:
 - a. to conduct investigations on the existence of Serious Injury or Threat of Serious Injury in the position of Domestic Industry producing Like Products or Directly Competitive Products, resulting from increased volume of imports;
 - b. to collect, examine and process all evidences and information relating to the investigation.
 - c. to make reports on the result of investigation.
 - d. to recommend the imposition of Safeguard Measure to the Minister; and
 - e. to conduct other relevant duties as assigned by the Minister.

Article 96

- (1) KADI and KPPI consist respectively of a Chairperson and a Vice Chairperson.
- (2) The Chairperson and the Vice Chairperson of KADI and KPPI is appointed and dismissed by the Minister.
- (3) The provisions concerning organisation and relevant by laws of KADI and KPPI are to be regulated in Decree of the Minister of Trade.

Article 97

KADI and KPPI in conducting their duties as mentioned in Article 94 and 95 shall be independent.

Article 98

All expenses as may be required to duly perform the task of KADI and KPPI as mentioned in Article 94 and article 95 shall be borne by the budget of the ministry in charge of trade.

CHAPTER VII
DISPUTE RESOLUTION
Article 99

- (1) Any objection against the imposition of Antidumping Measures, Countervailing Measures, and Safeguard Measure can only be addressed through the Dispute Settlement Body of the World Trade Organization.
- (2) Any objection regarding the execution of Antidumping Duty, Countervailing Duty and Safeguard Duty as imposed during the importation shall be addressed in accordance to the prevailing regulations.

**CHAPTER VIII
OTHER PROVISIONS
Article 100**

Any investigation conducted in relation to the imposition of Antidumping duty, Countervailing Duty or Safeguard Duty shall not impede the fulfilment of customs obligations for such imported products.

**CHAPTER IX
CLOSING PROVISIONS
Article 101**

When this Government Regulation comes into force:

1. Government Regulation Number 34 Year 1996 regarding Antidumping Duty and Countervailing Duty (State Gazette of Republic of Indonesia Year 1996 Number 51, Supplementary State Gazette Number 3639); and
2. Presidential Decree Number 84 of 2002 concerning the Safeguard of the Domestic Industry Against the Impact of Increased Imports (State Gazette of Republic of Indonesia Year 2002 Number 133) shall be revoked and shall not remain in force.

Article 102

When this Government Regulation comes into force:

1. KADI which was established by Government Regulation Number 34 of 1996 concerning Antidumping Duty and Countervailing Duty and KPPI which was established by Presidential Decree Number 84 of 2002 concerning the Safeguard of the Domestic Industry Against the Impact of Increased Imports (shall continue its' existence and resume their duties according to this Government Regulation;
2. Every decision and activity which were carried out by KADI based on Government Regulation Number 34 Year 1996 concerning Antidumping Duty and Countervailing Duty as well as KPPI based on Presidential Decree Number 84 of 2002 concerning the Safeguard of the Domestic Industry Against the Impact of Increased Imports (shall remain legally valid; and
3. The Implementing regulations of Government Regulation Number 34 of 1996 concerning Antidumping Duty and Countervailing Duty as well as the Presidential Decree Number 84 of 2002 concerning the Safeguard of the Domestic Industry Against the Impact of Increased Imports shall continue to prevail provided that they do not contradict with or has not yet been regulated by new implementing regulations based on this Government Regulation.

Article 103

This Government Regulation shall come into force on the date of its enactment.

For the purpose of public cognizance, it is ordered that the enactment of this Government Regulation shall be placed in the State Gazette of Republic of Indonesia.

Promulgated in Jakarta
On July 4, 2011

PRESIDENT OF THE REPUBLIC OF INDONESIA

Signed

STATE GAZETTE OF REPUBLIC OF INDONESIA YEAR 2011 NUMBER 66

**ELUCIDATION ON GOVERNMENT REGULATION
OF THE REPUBLIC OF INDONESIA**

NUMBER 34 OF 2011

CONCERNING

**ANTIDUMPING MEASURE, COUNTERVAILING MEASURE,
AND SAFEGUARD MEASURE**

Article 1

Self Explanatory.

Article 70

Self Explanatory.

Article 71

Paragraph (1)

Self Explanatory.

Paragraph (2)

Products Under Investigation shall include industrial products, agricultural products, maritime products, fishery products, forestry products and mining products.

Article 72

Paragraph (1)

"Other domestic parties" mean government institutions and/or regional governments which are associated with the Products Under Investigation, the Like Products or the Directly Competitive Products.

Paragraph (2)

Self Explanatory.

Paragraph (3)

Self Explanatory.

Paragraph (4)

Self Explanatory.

Paragraph (5)

Self Explanatory.

Paragraph (6)

Self Explanatory.

Article 73

Self Explanatory.

Article 74

Paragraph (1)

Public notice regarding the initiation of an investigation may be announced through official press release or publication in national newspapers.

Paragraph (2)

Self Explanatory.

Paragraph (3)

Self Explanatory.

Article 75

"all relevant factors of an objective and quantifiable nature having a bearing on the situation of the Domestic Industry" may include: increase in imports, share of domestic market taken by increased imports, changes in the level of sales, production, productivity, capacity utilization, profits and losses, and employment.

Article 76

Self Explanatory.

Article 77

Self Explanatory.

Article 78

Paragraph (1)

"request the provision of information" means requesting explanations, information, evidence, or other things related to the investigation.

"relevant interested parties" means domestic or foreign parties related to the Product Under Investigation, the Like Products, or the Directly Competitive Products.

Paragraph (2)

Self Explanatory.

Paragraph (3)

Self Explanatory.

Paragraph (4)

Self Explanatory.

Article 79

Paragraph (1)

"Other interested parties" means other parties aside from exporters, exporter's producers, the petitioners, importer and the government of particular exporting countries, which based on KPPI's consideration, it is necessary for them to be involved in the course of an investigation, in a case per case basis.

Paragraph (2)

Self Explanatory.

Article 80

Self Explanatory.

Article 81

Paragraph (1)

"Considerations of national interest" means considerations of the overall interests which are directly or indirectly related with the Safeguard Measure, *inter alia*:

- a. considerations of the existence of the petitioner's industry in the country as the party that is injured directly because of the existence of increased imports resulting in Serious Injury or Threat of Serious Injury, either financially, in form of declining market share, declining number of employees, or losses, etc;
- b. considerations of impact of the Safeguard Measure to the users' industries in the country in accordance to the interest of developing national industry, national food security and food prices stability, increasing employment, and fiscal interests.

The process of considering the national interest shall be done by the Minister after receiving recommendation to impose Safeguard Measure from KPPI. The Minister shall discuss the recommendation which involves ministers and/or heads of non-ministerial government institutions that are related to the policy of Safeguard Measure.

Paragraph (2)

Self Explanatory.

Paragraph (3)

Self Explanatory.

Paragraph (4)

Self Explanatory.

Paragraph (5)

Self Explanatory.

Paragraph (6)

Self Explanatory.

Paragraph (7)

Self Explanatory.

Paragraph (8)

Consideration of the convenience of conducting the collection in this paragraph shall not reduce the obligation of the minister in charge of finance to determine the tariff rate and duration time of the imposition of provisional Safeguard Duty within the time limit.

Paragraph (9)

Self Explanatory.

Article 82

Self Explanatory.

Article 83

Self Explanatory.

Article 84

Paragraph (1)

"Considerations of national interest" means considerations of the overall interests which are directly or indirectly related with the Safeguard Measure, including:

- a. considerations of the existence of the petitioner's industry in the country as the party that is injured directly because of the existence of increased imports resulting in Serious Injury or Threat of Serious Injury, either financially, in form of declining market share, declining number of employees, or losses, etc;
- b. considerations of impact of the Safeguard Measure to the users' industries in the country in accordance to the interest of developing national industry, national food security and food prices stability, increasing employment, and fiscal interests.

The process of considering the national interest shall be done by the Minister after receiving recommendation to impose Safeguard Measure from KPPI. The Minister shall discuss the recommendation which involves ministers and/or heads of non-ministerial government institutions that are related to the policy of Safeguard Measure.

Paragraph (2)

Self Explanatory.

Paragraph (3)

Self Explanatory.

Paragraph (4)
Self Explanatory.

Paragraph (5)
Self Explanatory.

Paragraph (6)
Self Explanatory.

Paragraph (7)
Consideration of the convenience of conducting the collection in this paragraph shall not reduce the obligation of the minister in charge of finance to determine the tariff rate and duration time of the imposition of provisional Safeguard Duty within the time limit.

Paragraph (8)
Self Explanatory.

Paragraph (9)
Self Explanatory.

Article 85
Self Explanatory.

Article 86
Self Explanatory.

Article 87
Paragraph (1)
Self Explanatory.
Paragraph (2)
Self Explanatory.
Paragraph (3)
"Considerations of national interest" means considerations of the overall interests which are directly or indirectly related with the Safeguard Measure, including:

- a. considerations of the existence of the petitioner's industry in the country as the party that is injured directly because of the existence of increased imports resulting in Serious Injury or Threat of Serious Injury, either financially, in form of declining market share, declining number of employees, or losses, etc;
- b. considerations of impact of the Safeguard Measure to the users' industries in the country in accordance to the interest of developing national industry, national food security and food prices stability, increasing employment, and fiscal interests.

The process of considering the national interest shall be done by the Minister after receiving recommendation to impose Safeguard Measure from KPPI. The Minister shall discuss the recommendation which involves ministers and/or heads of non-ministerial government institutions that are related to the policy of Safeguard Measure.

Paragraph (4)
Self Explanatory.

Paragraph (5)
Self Explanatory.

Paragraph (6)
Self Explanatory.

Paragraph (7)
Self Explanatory.

Paragraph (8)

Self Explanatory.

Paragraph (9)

Consideration of the convenience of conducting the collection in this paragraph shall not reduce the obligation of the minister in charge of finance to determine the tariff rate and duration time of the imposition of provisional Safeguard Duty within the time limit.

Paragraph (10)

Self Explanatory.

Article 88

Paragraph (1)

"reasonable period of time" means the request shall be filled at the latest 6 (six) months prior to the expiry of the Safeguard Measure.

Paragraph (2)

Self Explanatory.

Paragraph (3)

Self Explanatory.

Paragraph (4)

Self Explanatory.

Paragraph (5)

Self Explanatory.

Article 89

Self Explanatory.

Article 90

Self Explanatory.

Article 92

Paragraph (1)

"Committee on Safeguards" means an organ within the World Trade Organization/WTO, which monitors the implementation of WTO Agreement on Safeguards.

Paragraph (2)

Self Explanatory.

Article 93

Self Explanatory.

Article 95

Self Explanatory.

Article 96

Self Explanatory.

Article 97

Independent within the scope of this provision shall be understood to mean in the execution on their investigative role.

Article 98

Self Explanatory.

Article 99

Self Explanatory.

Article 100
Self Explanatory.

Article 101
Self Explanatory.

Article 102
Self Explanatory.

Article 103
Self Explanatory.

SUPPLEMENTARY STATE GAZETTE NUMBER 5225
