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Page: 1/9

**Committee on Anti-Dumping Practices  
Committee on Subsidies and Countervailing Measures  
Committee on Safeguards**

Original: English

**NOTIFICATION OF LAWS AND REGULATIONS UNDER  
ARTICLES 18.5, 32.6 AND 12.6 OF THE AGREEMENTS**

REPLIES TO QUESTIONS<sup>1</sup> POSED BY THE UNITED STATES REGARDING  
THE NOTIFICATION OF LAO PEOPLE'S DEMOCRATIC REPUBLIC<sup>2</sup>

The following communication, dated 26 October 2020, is being circulated at the request of the delegation of Lao People's Democratic Republic.

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**Antidumping and Countervailing Measures**

***Part 1 Chapter 1 General Provisions***

**Question 1**

**Article 5.2 of the *Law on Anti-Dumping and Countervailing Measures* (hereinafter "AD/CVD Law") indicates that AD and CVD measures shall follow the principles of transparency, objectivity, and fairness. Please describe the approach or practices Lao will take to ensure that its AD and CVD actions reflect these principles. For example, how will case documents and evidence be shared with all interested parties? What processes are in place to ensure decision-making is transparent?**

**Reply:**

Currently Lao PDR is in the process of establishing the rights and responsibility for the Investigating Authority according to Article 36 and 37 of the Law on Anti-Dumping and Countervailing Measures and Article 37 of the Law on Safeguard. After such establishment, it is expected that the information of Trade Remedy documents will be posted in dedicated website or other methods that are in accordance with the infrastructure of the investing authority. In order to ensure decision making is transparent, the investigating authority shall verify and confirm that production volume of a party who supports the investigation and a party who does not support thereof represent fifty (50) percent of domestic production volume of like products and oppose collectively. However, the party who supports the investigation shall have the production volume more than twenty-five (25) percent of the total production volume of like products of applicant, supporter, opposer and neutral collectively. Please referred to Article 27 of the Law. Please also refer to Answer 6 below for the transparency.

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<sup>1</sup> G/ADP/Q1/LAO/1 - G/SCM/Q1/LAO/1 - G/SG/Q1/LAO/1.

<sup>2</sup> G/ADP/N1/LAO/2 - G/SCM/N1/LAO/1 and G/SG/N1/LAO/2 (dated 19 December 2019). For the sake of efficiency, the United States suggests that committee review for questions 1-3 and 5-21 be conducted in the Committee on Anti-Dumping Practices, while committee review for question 4 and questions 22-33 be conducted in the Committee on Subsidies and Countervailing Measures and Committee on Safeguards, respectively.

**Part 2 Chapter 1 Dumping**

**Question 2**

**Article 11 of the AD/CVD Law lists three methods for comparing normal value and export price. Are these listed in order of priority, or are other factors used to determine which method will be used to compare normal value and export price?**

**Reply:**

The three methods listed in the AD/CVD Law does not come in order of priority. Method 1 and 2 can be used interchangeably. As for method 3, it can only be used when the export price is different between buyers, region, period of export, the comparison shall be made between a weighted average price and an export price of each commercial transaction.

**Question 3**

**Please provide or identify the specific regulation which determines the formula alluded to in Article 11 of AD/CVD Law or explain the expected timeframe for having this regulation in place.**

**Reply:**

There is a specific regulation which determines the formula alluded to in Article 11 of AD/CVD Law named "Guidance on the Implementation on Article 10, 11 and 15 on the Law on AD/CVD, No. 0464/MOIC.DFPT, dated 12 May 2020". Lao PDR is welcomed the technical assistance for translation of this Guidance.

**Part 2 Chapter 2: Subsidy:**

**Question 4**

**Under Article 16.3 of the AD/CVD Law, you state that the benefit provided "in the form of equity infusion shall be calculated from the amount of actual capital that an enterprise received from selling shares to a government." Please provide an explanation as to how this language complies with Article 14(a) of the Agreement on Subsidies and Countervailing Measures which states that a "government provision of equity capital shall not be considered as conferring a benefit, unless the investment decision can be regarded as inconsistent with the usual investment practice (including for the provision of risk capital) of private investors in the territory of that Member".**

**Reply:**

Please refer to Article 15 of the AD/CVD Law which is calculation of amount of subsidization that is considered as specificity.

**Part IV Chapter 1 Investigation and Investigating Authorities:**

**Question 5**

**Does the AD/CVD Law authorize the government to initiate an investigation in the absence of a petition from the domestic industry? If so, are the evidentiary requirements for initiation the same as those that apply in an investigation initiated based on a petition or application?**

**Reply:**

Please refer to Article 24.1 and Article 25 which stated that the causes of investigation on injury from dumping or subsidy can be from "a discovery of information or evidence of injury to a domestic

industry by the investigating authorities" and the requirements for initiation can be found in Article 25 "Discovery of Information and Evidence by Investigating Authorities.

#### **Question 6**

**Please explain whether the government of the exporting country will be notified of an application prior to initiation, consistent with Article 5.5 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (hereinafter "WTO Antidumping Agreement"), which requires that the authorities notify the government of the exporting Member concerned after receipt of a properly documented application and before proceeding to initiate an investigation.**

#### **Reply:**

Please refer to Article 30.1 of the AC/CVD Law which stated that after the Minister has issued the Decision on Investigation, the exporting country, the applicant, the WTO and the interested parties will be notified.

#### **Question 7**

**How will the parties on the investigating committee be selected under Article 29 of the Law? Is there any requirement that these individuals avoid conflicts of interest with parties involved in the investigation?**

#### **Reply:**

The selection of the parties on the investigating committee can be found in Article 36 and the requirement of these individuals to avoid conflicts of interest with parties involved in the investigation can be found in Article 56.

#### **Question 8**

**What information will be requested in questionnaires under Article 30 Paragraph 1 Subpart 3 of the AD/CVD Law? How much time will be given to the parties to respond to initial questionnaires?**

#### **Reply:**

Together with the process of establishing the Investigating Authority as specified in question 1, Lao PDR is in the process of formulating the questionnaire form that will take into account some samples of international best practices as well as timeframe to be given to the parties to respond to initial questionnaires.

#### **Question 9**

**Under Article 31 of the AD/CVD Law, is the Minister of Industry and Commerce permitted to consider anything other than the reported results of the investigation in making their recommendation to the government? Will there be any process by which interested parties may challenge the decision of the Minister and Government or any period to comment on the Minister's recommendation? Finally, will this decision be released to interested parties and the public?**

#### **Reply:**

The Ministry of Industry and Commerce will base whether or not to apply AD/CVD measure on the result of the report of the investigating authorities. There will be process where interested parties may provide comments on the reports of Investigating Authority. Please also refer to Article 52 of the AD/CVD.

#### **Question 10**

**Can a cancellation of an investigation under Article 33 of the AD/CVD Law be issued at any point in the investigation process?**

**Reply:**

Please refer to Article 33.2 and Article 33.3 which stated that the cancellation of investigation can be issued at any point if "there is no evidence to prove the causal link of dumping or subsidy and injury of domestic industry" or if "the investigation findings are not consistent with condition defined in Article 22 of AD/CVD law.

#### **Question 11**

**Article 33, Paragraph 1, Subpoint 4 allows for the cancellation of an investigation for any "other reasons as determined by the Government." Can you clarify what these reasons might be or provide some examples? Does this allow for cancellation based on the public interest?**

**Reply:**

Yes. Other reasons may include the public interests.

#### **Question 12**

**Regarding Article 34 of the AD/CVD Law, what repercussions, if any, are there for parties which disclose confidential information without authorization in the course of an investigation?**

**Reply:**

Please refer to Article 67 which specified the measures against violators.

#### **Question 13**

**Please explain how interested parties are able to access the non-confidential information provided to the investigating authority.**

**Reply:**

Please refer to Article 30 of the AD/CVD Law and together with the answer to Question 1; after the establishment of Investing Authority, it is expected that the information of Trade Remedy documents will be posted in dedicated website or other methods that are in accordance with the infrastructure of the investing authority.

### ***Part V Chapter 2 Application of Provisional Measures***

#### **Question 14**

**Will the notification of provisional measures as described under Article 41 of the AD/CVD Law comply with the requirements of Article 12.2.1 of the WTO Antidumping Agreement, which requires a public notice that sets forth or makes available sufficiently detailed explanations for the preliminary determinations on dumping and injury, the names of suppliers or countries involved, a description of the product sufficient for customs purposes, margins and a full explanation of methodology, considerations relevant to the injury determination, and the main reasons for the determination?**

**Reply:**

Please refer to Article 30 and the details of notification process will be elaborated in the subsequent implementing legislation. Lao PDR is welcomed the technical assistance for this development.

**Question 15**

**Please explain the procedures for interested parties to request an agreement which would eliminate dumping or subsidy duties under Articles 44 and 45 of the AD/CVD Law?**

**Reply:**

Please refer to Article 44.1 which indicates that the "Ministry of Industry and Commerce may reach the agreement with exporters in which exporters agree to increase the price of dumped products or cease exporting at dumped prices."

**Question 16**

**Can an Agreement under Articles 44 and 45 of the AD/CVD Law be established at any time during an investigation? If not, please explain when such an agreement may be established. Please also explain whether such an agreement may be established after measures have been imposed.**

**Reply:**

Yes. Please also refer to the answer for Question 15.

***Part V Chapter 3 Application of General Measures***

**Question 17**

**Is the National Assembly empowered under Article 47 of the AD/CVD Law to modify the proposed measure in any way before voting to implement it?**

**Reply:**

The National Assembly may approve the purposed measure. The tariff rate enforced in general measures is only imposed to remove injury and shall be equal to or lower than margin of dumping or amount of subsidy of exporters; unless otherwise there is an agreement on elimination of dumping and subsidy as stipulated in Article 44 and 45.

**Question 18**

**What must be included in an acceptable application for refund under article 50 of the AD/CVD Law and will this refund include any interest payments for the period of time money was withheld? Does the result of a refund review revise the duty rate in effect?**

**Reply:**

The exporters of investigated products may request for refund, where it can be demonstrated that the margin of dumping or amount of subsidy has been eliminated or reduced to a level which is below the level of duty in effect. The refund shall normally be made within three (3) months after the date on which the refund was authorized. In case the refund cannot be made within three (3) months, the investigating committee shall provide reasons of the delay.

**Question 19**

**Please explain whether the administering authority can revise the applicable rate of duty as the result of an expiry review or if the result of an expiry review is limited to continuing (or allowing to expire) duties at the existing rate.**

**Reply:**

Please refer to Article 49 Review of the Application of General Measures.

**Question 20**

**Should a party request consideration of decisions made according to Articles 47, 49, or 50 of the AD/CVD Law, what Court or administrative body would hear the case? What constitutes a complete and acceptable application for consideration to the court under Article 52 of the AD/CVD Law?**

**Reply:**

Please refer to Article 52, the Lao people's Court dealing with economic or commercial issues.

***Part VII Chapter 1 Administration of Anti-dumping and Countervailing Activities***

**Question 21**

**Articles 59 and 60 of the AD/CVD Law indicate that provincial and municipal authorities have certain investigative and implementational rights and duties that overlap with the national authorities' rights and duties. Please explain whether certain rights duties are reserved to provincial and municipal authorities. Also please clarify whether the provincial and municipal authorities will play any role in the investigation of dumping or countervailing activities.**

**Reply:**

Please refer to Article 59.3 and Article 59.4, the provincial and municipal authorities will be responsible for facilitating and cooperating with the Investigating Authority and committee to implement anti-dumping and countervailing activities. In addition, they may receive recommendations and notices on anti-dumping and countervailing activities from relevant sectors, and report to the Ministry of Industry and Commerce for consideration. Moreover, Article 60.4, these authorities will also facilitate and cooperate with the investigating authorities and committee regarding injury from dumping and subsidy.

***Safeguards***

**Question 22**

**With regard to Article 5 of the Law on Safeguards, please clarify the order of precedence of the manner in which the Law on Safeguards would be applied? That is, if there are conflicts between the Law on Safeguards, other federal policies and laws and the international agreements to which Lao DPR is a party, which authority holds precedent?**

**Reply:**

Refer to Law on Treaties and Conventions, Ref. No. 18/NA, dated 08 May 2017, Article

**Question 23**

**Article 9 of the Law on Safeguards indicates that details related to the eight listed injury factors and the degree of serious injury are defined in specific regulations. Please identify the referenced regulations and confirm that they will be notified to the WTO Committee on Safeguards.**

**Reply:**

The details of the eight listed injury factors and the degree of serious is specified in the Guidance on the Implementation of Article 9 of the Law on Safeguard, No. 0905/MOIC.DFTP, dated 05 July 2018. Lao PDR is welcomed the technical assistance for translation of this Guidance.

**Question 24**

**Article 11 of the Law on Safeguards indicates that the Ministry of Industry and Commerce, in collaboration with ministries and relevant sectors, shall conduct the investigation of serious injury before proposing the application of a safeguard measure. Article 16 of the Law on Safeguards states, "{t}he investigating committee shall consist of the investigating authorities, government officials of the industry and commerce sector, and other relevant sectoral representatives." Please clarify whether the investigating committee will consist of and/or collaborate with private sector representatives and provide examples of the representatives of relevant sectors that would be involved.**

**Reply:**

Please refer to Article 11 and Article 16, the relevant sectors may include representatives from private sectors, including those from the Lao National Chamber of Commerce and Industry.

**Question 25**

**Regarding Article 18 of the Law on Safeguards, please explain how the investigating committee will provide the information in the investigation report to interested parties for review and comment.**

**Reply:**

Please also refer to the answer to Question 1.

**Question 26**

**Please clarify the process by which the Government will decide whether to impose a safeguard measure. That is, describe the entities with decision-making authority and the respective decision making processes.**

**Reply:**

The Government will decide to impose safeguard measure if there is an injury to a domestic industry and there is a causal link between the increased imports and a serious injury or threat of serious injury. Injury to a domestic industry means a loss of overall commercial benefits from a significant increase in imports and under such conditions as to cause or threaten to cause a serious injury to a domestic industry. Please also refer to Article 11, Article 27 and Article 30 for the whole picture of the investigation process and application of safeguard measures.

**Question 27**

**If, under Article 19 of the Law on Safeguards, the Minister of Industry and Commerce decides to terminate an investigation, does that termination need to be approved by the Government?**

**Reply:**

Refer to Article 19 of the Law on Safeguards, the Minister of Industry and Commerce does not need to be approved by the Government to terminate an investigation if the 3 cases specified in such Article occurred.

#### **Question 28**

**Regarding Article 30 of the Law on Safeguards, could the Government or Standing Committee of the National Assembly decide not to impose duties despite a recommendation to do so by the Minister of Industry and Commerce? Conversely, could the Government or Standing Committee of the National Assembly decide to impose duties if the imposition was not recommended by the Minister of Industry and Commerce?**

**Reply:**

Yes, the Government or Standing Committee of the National Assembly decide not to impose duties despite a recommendation to do so by the Minister of Industry and Commerce.

Please refer to Article 30, the Minister of Industry and Commerce will propose the Government to consider imposing duties based on the report presented by the investigating committee within fifteen working days. However, the National Assembly would only consider imposing duties **based on** the report recommended by the Minister of Industry and Commerce.

#### **Question 29**

**Regarding Article 39 of the Law on Safeguards, what consequences are faced by parties, if any, which disclose confidential information without authorization in the course of a safeguard investigation?**

**Reply:**

Please refer to Article 50 on Measures against Violators.

#### **Question 30**

**Please clarify whether and how interested parties can appeal decisions made by the Minister of Industry and Commerce, the Government, or the Minister of Finance of the Standing Committee of the National Assembly.**

**Reply:**

The details on how interested parties can appeal decision will be specified in the subsequent implementing legislation. Lao PDR is welcomed the technical assistance for this development.

#### **Question 31**

**Please explain how interested parties can request a public hearing to present evidence and arguments during the course of a safeguard proceeding.**

**Reply:**

The details on how interested parties can request a public hearing to present evidence and arguments during the course of a safeguard proceeding will be specified in the subsequent implementing legislation. Lao PDR is welcomed the technical assistance for this development.

#### **Question 32**

**Please explain how interested parties can access the non-confidential information that is provided to the investigating authority.**

**Reply:**

Please refer to Article 17.1 and Article 17.2 of the Law on Safeguard that the investigating authorities will "notify the exporting country, the applicant, the WTO and interested parties before carrying out



the actual investigation as well as "disseminate the Decision on Investigation on any media to inform the public."

**Question 33**

**Please clarify whether/if and how parties can register their interest in a safeguard proceeding with the authority and whether there is a time limit to do so.**

**Reply:**

The details on how parties can register their interest in safeguard proceeding and the time limit will be specified in the subsequent implementing legislation. Lao PDR is welcomed the technical assistance for this development.

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