

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

**POLAND**

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## **THE LAW OF 11 APRIL 2001 ON SAFEGUARDS AGAINST EXCESSIVE IMPORTS OF PRODUCTS INTO THE POLISH CUSTOMS TERRITORY**

### **CHAPTER 1**

#### **General Provisions**

##### **Article 1**

1. This Law sets down safeguard measures against excessive imports of products into the Polish customs territory, hereinafter referred to as “safeguard measures”, as well as principles and procedures for applying the measures, hereinafter referred to as “safeguard investigation proceedings”.
2. Provisions of this Law shall not apply to products whose excessive imports are subject to restrictions within the scope regulated by separate provisions of law or international agreements.
3. Safeguard measures and investigation proceedings, set down by this law, relating to products from WTO member countries, shall be applied upon satisfying requirements set down in the Agreement on Safeguard Measures (Official Journal of Laws of 1996, No 9, item 54), constituting an appendix to the World Trade Organization Agreement, done in Marrakesh on 15 April 1994 (Official Journal of Laws of 1995, No 98, item 483).
4. During investigation proceedings the relevant provisions of the Administrative Proceedings Code shall apply accordingly to matters not regulated by this Law.

##### **Article 2**

1. Prior to issuance, decisions and ordinances referred to in the Law shall be submitted for opinion to the President of the Office for Competition and Consumer Protection. Provisions of Article 106 paragraphs 2 and 5 of the Administrative Proceedings Code shall not apply.
2. Decisions and ordinances referred to in paragraph 1 shall be binding from the date of publication.
3. Notices on decisions along with their justification shall be published in the Official Journal of the Republic of Poland “Monitor Polski – B”.
4. The minister responsible for the economy shall promptly deliver the published ordinances to the proper authorities of the exporting country, whereas decisions shall be delivered to all the participants in the safeguard investigation proceedings.
5. Where the number of participants exceeds fifty, the minister responsible for the economy may substitute delivery by a public notice in a national daily newspaper.

##### **Article 3**

Imports of products into the Polish customs territory shall be regarded as excessive, where the products are imported:

- (1) in such increased quantities, absolute or relative to the domestic production of like or directly competitive products; and

- (2) on such conditions

as to cause or threaten to cause serious injury to the domestic industry, producing like or directly competitive products.

#### **Article 4**

1. For the purposes of this Law:

- (1) “like products” shall be understood to mean products, which are identical in every respect to products covered by the safeguard investigation proceedings or, in the absence of such products - other products which, although not identical in every respect, have characteristics strictly corresponding to those of the products under investigation;
- (2) “directly competitive products” shall be understood to mean products, which although not satisfying requirements set down in point 1, may be considered substitutes for the products under investigation given their potential for identical usage and satisfying the same functions, as well as price;
- (3) “serious injury” shall be understood to mean significant and general deterioration in the situation of a domestic industry;
- (4) “threat of serious injury” shall be understood to mean a situation where it has been established on the basis of facts, that the occurrence of serious injury is highly probable and imminent;
- (5) “domestic industry” shall be understood to mean the producers as a whole of the like or directly competitive products within the territory of the Republic of Poland, or those whose total output of the like or directly competitive products constitutes a major proportion of the total domestic production of those products;
- (6) “exporting country” shall be understood to mean the country of origin of the products pursuant to the provisions of customs law; where the country of origin cannot be established, the country of dispatch shall be regarded as such; the country through which a product is transported shall not be regarded as the exporting country;

2. The following may be parties to safeguard investigation proceedings:

- (1) foreign producers or exporters of the product covered by safeguard investigation proceedings, domestic importers of the products or organizations and associations of entrepreneurs, where the majority of members are foreign producers or exporters or domestic importers of the given product;
- (2) proper authorities of the exporting country;
- (3) domestic producers or producer organizations and associations, where the majority of members are producers of like or directly competitive products;
- (4) producers using products covered by the safeguard investigation proceedings in the production process or their organizations, or consumer organizations;

- (5) other domestic or foreign natural or legal persons, upon proving their direct material interest or other legally protected interest in the case under examination.

## CHAPTER 2

### Safeguard Measures

#### Article 5

1. If the safeguard investigation proceedings prove that imports of a product into the Polish customs territory are excessive, safeguard measures may be applied against the imports thereof, subject to paragraph 2.

2. Safeguard measures shall not be applied against a product originating from a developing country being a member of WTO, whose individual share of imports to the Polish customs area does not exceed 3 per cent, provided that the total imports from these countries does not exceed 9 per cent of total imports to the Polish customs area of the product covered by the safeguard investigation proceedings.

#### Article 6

1. Safeguard measures shall be applied against products covered by the procedures on admission to trade, regardless of their country of origin, unless agreements concluded by the Republic of Poland provide otherwise, subject to paragraphs 2 and 3 and Article 5 paragraph 2.

2. Where serious injury or threat thereof is caused exclusively by excessive imports of products originating from countries, with which the Republic of Poland has concluded agreements on Free Trade Zones, safeguard measures shall be applied exclusively against imports of products originating from these countries, pursuant to provisions of agreements on Free Trade Zones.

3. Where serious injury or threat thereof is caused exclusively by excessive imports of products originating from countries not being WTO members, safeguard measures may be applied exclusively against products originating from these countries, unless agreements by the Republic of Poland with these countries provide otherwise.

#### Article 7

Safeguard measures shall be applied only for a definite period of time and at the level and in the form necessary to prevent or remedy serious injury to the domestic industry and to facilitate adjustment of that industry to competition.

#### Article 8

Provisional safeguard measures shall be established in the form of a provisional additional customs duties.

#### Article 9

1. Final safeguard measures shall be established in the form of, in particular:

- (1) additional customs duties;
- (2) quotas.

2. In case of products originating from non-WTO member countries, safeguard measures may also be established in the form of non-automatic registration of trade, pursuant to the provisions of the Law on the Administration of Foreign Trade in Goods and Services of 11 December 1997 (Official Journal of Laws No 157, item 1026, of 1999 No 55, item 587 and No 101, item 1178, of 2000 No 119, item 1250 and of 2001 No 29, item 320 and No 42, item 472), unless agreements concluded by the Republic of Poland with these countries provide otherwise.

3. Where a safeguard measure is established in the form referred to in paragraphs 1 point 2 and 2, import of products into the Polish customs territory shall require a permit. The issuing of import permits shall be conducted in accordance with the provisions of the Law on the Administration of Foreign Trade in Goods and Services of 11 December 1997.

4. In the process of establishing additional customs duties, the minister responsible for the economy may, on grounds of it serving the public interest, indicate the level of imports not covered by the duties.

5. Provisions on quotas shall apply accordingly to the level of imports referred to in paragraph 4.

#### **Article 10**

Additional customs duties referred to in Article 8 and Article 91 paragraph 1 point 1 shall constitute import customs duties within the meaning of the customs law.

### **CHAPTER 3**

#### **Safeguard investigation proceedings**

#### **Article 11**

1. The minister responsible for the economy shall instigate safeguard investigation proceedings:

- (1) on written application by a natural or legal person or an organizational unit without legal status, acting on behalf of the domestic industry; an application shall be deemed to have been filed on behalf of the domestic industry if it is supported by domestic producers whose total production constitutes at least 25 per cent of production of like or directly competitive products, and the applicant submits data and information concerning a significant part of the total domestic production of that product;
- (2) ex officio, if he is in possession of data justifying instigation of safeguard investigation proceedings.

2. The application referred to in paragraph 1 point 1 should include, in particular, information or data on:

- (1) the applicant;
- (2) the name of the product against which investigation proceedings are applied for;
- (3) sales of like or directly competitive product of domestic production;
- (4) the domestic industry in the scope of:

- (a) the level of production;
  - (b) capacity utilisation;
  - (c) total imports to production ratio;
  - (d) employment;
  - (e) profits and losses;
  - (f) productivity;
- (5) countries exporting the product;
  - (6) importers;
  - (7) prices of products imported into the Polish customs territory;
  - (8) the causal link between increased imports of the products into the Polish customs territory and serious injury or threat thereof to the domestic industry;
  - (9) domestic industry adjustment programmes aimed at ensuring its competitiveness.

3. The minister responsible for the economy shall set down, by way of an ordinance, the specimen application form referred to in paragraph 1 point 1, as well as its filing procedures, taking into account data referred to in paragraph 2.

4. If an application fails to meet the requirements set down in paragraphs 2 and 3 or the data contained therein are insufficient, the minister responsible for the economy shall, not later than within 15 days of filing the application, inform the applicant of this fact and summon him to remove the defects found within a set time-limit, which shall not be shorter than 30 days from the date of summons receipt, under the pain of not examining the application. In case of failure to remove defects within the set time-limit, the minister responsible for the economy may, where circumstances of the case so justify, set an additional time-limit for removal of defects.

5. The date of filing the application, referred to in paragraph 4, shall be the date of filing of application in which defects have been removed.

6. In case of withdrawal of the application by the applicant prior to the issue of a decision on instigation of safeguard investigation proceedings, the proceedings shall not be instigated.

7. Where the applicant withdraws the application after safeguard investigation proceedings have been instigated, the minister responsible for the economy shall, by way of a decision, discontinue proceedings, unless the public interest is violated.

8. Complaints may be brought against decisions referred to in paragraph 7.

## **Article 12**

1. The minister responsible for the economy shall, within 30 days from the date of application filing, issue a decision on refusal to instigate safeguard investigation proceedings, if:

- (1) the information and data contained in the application indicate that the conditions referred to in Article 3 do not exist;
  - (2) the public interest so requires.
2. Complaint may be brought against decisions referred to in paragraph 1.

### **Article 13**

1. Prior to issuing the decision referred to in Article 14, no information on the case shall be disclosed to the public.
2. Where international agreements provide for the obligation to notify the authorities of exporting country of the intention to instigate safeguard investigation proceedings, the minister responsible for the economy shall notify the authorities concerned of this fact.

### **Article 14**

1. The minister responsible for the economy shall, by way of decision, instigate safeguard investigation proceedings if the information and data at his disposal are indicative of the existence of the prerequisites referred to in Article 3.
2. In case of products imported from non-WTO member countries, one of the prerequisites referred to in Article 3 shall suffice to instigate safeguard investigation proceedings, unless the agreements entered into by the Republic of Poland with these countries provide otherwise.
3. In case of safeguard investigation proceedings instigated on application referred to in Article 11 paragraph 1 point 1, the minister responsible for the economy shall issue a decision on instigation of proceedings, not later than within 30 days of application filing.
4. The decision referred to in paragraph 1 shall include in particular:
  - (1) the date of instigation proceedings;
  - (2) indication of the applicant;
  - (3) the name and description of the product concerned and its customs tariff code;
  - (4) indication of like or directly competitive product with products covered by the proceedings;
  - (5) indication of the scale of increase in imports of the products covered by the proceedings, both in absolute terms as well as in relation to domestic production;
  - (6) determination of factors, which constitute the basis for finding serious injury and causal link;
  - (7) indication of the period under investigation;
  - (8) schedule of proceedings, including:
    - (a) date by which the parties concerned may notify of their participation in the proceedings;

- (b) date of the explanatory session, if the need for such a session arise;
- (c) the expected date for completion of the proceedings.

5. Complaint shall not be brought against decisions referred to in paragraph 1.

#### **Article 15**

Where a party shall substantiate that failure to meet the time-limit set down in Article 14 paragraph 4 point 8 (a) occurred for reasons irrespective of the party, the minister responsible for the economy shall allow such party to participate in safeguard investigation proceedings.

#### **Article 16**

1. The minister responsible for the economy may summon the parties to provide information or explanations within a set time-limit if this is necessary for the purpose of the investigation proceedings conducted.

2. If a party refuses to provide information or explanations referred to in paragraph 1 within the set time-limit, or otherwise obstructs the safeguard investigation proceedings, findings shall be made on the basis of the information and data available to the authority in charge of the proceedings.

3. Any information or explanations that have been found in the course of the investigation proceedings to be false or misleading shall be omitted in the proceedings.

#### **Article 17**

1. In the course of safeguard investigation proceedings, the parties may present explanations, lodge motions and present evidence in support thereof.

2. Explanations and information presented orally during investigation proceedings may be admitted as evidence, provided they are recorded in the form of a protocol enclosed to the case files.

#### **Article 18**

1. Sessions may be convened during safeguard investigation proceedings with a view of clarifying circumstances and facts under investigation.

2. Sessions are chaired by a person designated by the minister responsible for the economy from among employees of the ministry of economy. The chairperson shall draw up the agenda of the session, preside over it and keep the minutes.

3. Sessions shall be called reasonably in advance to allow the parties, whose presence at the meeting is justified, to prepare for them.

#### **Article 19**

1. Minutes referred to in Article 18 paragraph 2 shall be kept in such a way, as to show which doubtful circumstances and facts subject to the investigation were examined and clarified, who and in what capacity gave testimony, and what views were expressed by the parties present.

2. The minutes shall be promptly delivered to the participating parties.



3. Parties referred to in paragraph 2 are entitled to present their reservations in writing, within 7 days of minutes receipt thereof. Reservations should include a justification along with data and supporting information.

## **Article 20**

1. In order to determine whether increased imports of products under investigation have been instrumental in causing serious injury to the domestic industry, the minister responsible for the economy shall examine during investigation proceedings, for a period not shorter than 3 representative years preceding the date of instigating the investigation proceedings, in particular:

- (1) the level and rate of the increase in imports, in absolute terms and in relation to domestic production and consumption;
- (2) the share in the domestic market of the products covered by the investigation;
- (3) the price of products covered by the investigation proceedings, including their relation to prices of like or directly competitive products;
- (4) changes in the domestic market and production in terms of:
  - (a) level of production;
  - (b) level of capacity utilisation;
  - (c) productivity;
  - (d) stocks levels;
  - (e) employment;
  - (f) profits and losses;
  - (g) level of sales;
  - (h) share in the domestic market;
  - (i) prices of the like or directly competitive domestic products (price reductions or preventing price increases that would occur under normal circumstances).

2. In order to ascertain whether the imports of products covered by the investigation proceedings carry a threat of serious injury to the domestic industry, the minister responsible for the economy shall examine:

- (1) the level and rate of increase in imports in absolute terms and in relation to domestic production and consumption of products under investigation, due to restricted access to the market in third countries or due to seasonal surplus in supply in the exporting country, in particular;
- (2) the export potential of the exporting country of the product covered by investigation proceedings and the probability of using this potential for increasing imports into the Polish customs territory;

- (3) decline in sales or market share of the domestic industry, increase in the stocks levels of producers, importers or trading enterprises, decrease in production, profits, employment productivity or reduction of remuneration;
- (4) the degree of difficulty experienced by the domestic entrepreneurs in financing the production of new products or modernisation of the existing production.

3. In the course of a safeguard investigation proceedings, the minister responsible for the economy shall also examine other factors than imports which may cause serious injury to the domestic industry. Injury found to be caused by such other factors shall not be attributed to imports.

## **Article 21**

1. Where the minister responsible for the economy preliminarily determines in the course of a safeguard investigation proceedings that imports of products covered by investigation proceedings are excessive and introduction of safeguard measures only after completion of the investigation proceedings would cause or threatens to cause serious injury which would be difficult to remedy, the minister may establish, by way of an ordinance, provisional safeguard measures.

2. Provisional safeguard measures shall be established for a period not exceeding 200 days.

3. The ordinance referred to in paragraph 1 shall set down in particular:

- (1) the name, description of the product concerned and its customs tariff code;
- (2) the level and duration of the provisional safeguard measure;
- (3) the method, conditions and scope of application the provisional safeguard measure.

4. The preliminary determination referred to in paragraph 1 shall be announced by decision. The decision shall state in particular a description of the factual state found and the factual and legal grounds for establishments made.

5. Parties participating in the safeguard investigation proceedings are entitled to present written reservations within 14 days from the date of receipt of the decision referred to in paragraph 4. The reservations shall include a justification along with any data and supporting information.

## **Article 22**

In case of establishing a provisional additional customs duty, a product shall be admitted to free trade against security equal to the amount set down at the level of the amount due for the provisional additional customs duty. Respective provisions of the customs code shall apply within the scope of proceedings on security.

## **Article 23**

Provisional safeguard measures do not apply to products delivered under contracts concluded prior to the entry into force of the ordinance referred to in Article 21 paragraph 1, provided that the transport documents have been issued prior to the entry into force of the ordinance, and products have been imported into the Polish customs territory not later than 3 months from the date of its entry into force.

**Article 24**

Safeguard investigation proceedings should be completed not later than within 12 months from the date of instigation.

**Article 25**

The minister responsible for the economy shall issue decisions on completion of safeguard investigation proceedings without applying safeguard measures, if in the course of the investigation proceedings it has been established that:

- (1) imports into the Polish customs territory of products covered by safeguard investigation proceedings have not caused serious injury to the domestic industry;
- (2) nor do they constitute a threat of such injury;
- (3) nor do they have an impact on adjustments in the industry;
- (4) or the public interest so requires.

**Article 26**

1. Where safeguard investigation proceedings are completed without applying safeguard measures, the minister responsible for the economy shall repeal the ordinance referred to in Article 21 paragraph 1.

2. In cases referred to in paragraph 1, on written application of the interested party, the customs authority shall refund the security amounts paid pursuant to Article 22, within 30 days of application filing.

3. No interest shall be paid out on the amounts of security refunded by the customs authority.

**Article 27**

1. Where as a result of the safeguard investigation proceedings it shall be established, that imports of products covered by the proceedings are excessive, the minister responsible for the economy shall issue a decision in which that fact shall be stated. The decision shall specify in particular:

- (1) the name, description of the product concerned and its customs tariff code;
- (2) determination of the method and factors which were taken into account while establishing whether increased imports of the product concerned are causing or threatening to cause serious injury;
- (3) indication of the proper safeguard measure to be applied and the possible consequences of its application for the economy and public interest;
- (4) evaluation of the domestic industry's adjustment programme, which is intended to ensure its competitiveness after restrictions on market access have been lifted;
- (5) a list of known entrepreneurs constituting the domestic industry, producing the product referred to in point 1.

2. The decision referred to in paragraph 1 shall contain a justification indicating the factual and legal basis for findings made.

3. Provision of Article 21 paragraph 5 shall apply to decisions referred to in paragraph 1.

## **Article 28**

1. Where as a result of safeguard investigation proceedings the minister responsible for the economy finds, that the legal conditions for protecting the market against excessive imports have been fulfilled, the minister responsible for the economy shall set down, by way of an ordinance, a final safeguard measure.

2. The ordinance referred to in paragraph 1 shall specify in particular:

- (1) the name description of the product concerned and its customs tariff code;
- (2) the type of safeguard measure applied;
- (3) the level and period of application of the safeguard measure;
- (4) the method, conditions and scope of application of the safeguard measure, including an indication of the country of origin, which the measure relates to.

3. Final safeguard measures may be applied for a period not exceeding 4 years, taking into account the period of application of a provisional safeguard measures.

4. Where the final safeguard measure has been applied for a period of over one year, the ordinance on application of the final safeguard measure shall also set down the schedule for its gradual liberalisation.

5. Where the final safeguard measure has been applied in the form of a quota, the ordinance on application of the final safeguard measure shall also set down the method of distributing the quota.

6. Where the final safeguard measure has been applied in the form of non-automatic registration of imports, the ordinance on application of the final safeguard measure shall also set down the conditions for issuance and use of permits for imports of products covered by the registration. In particular, the observance of the established unit price of the imported product shall be the condition for use of the import permit.

## **Article 29**

Final safeguard measures shall not be applied to products supplied under contracts concluded prior to the entry into force of the ordinance referred to in Article 28 paragraph 1, provided that transport documents have been issued prior to the entry into force of the ordinance, and the products have been imported into the Polish customs territory not later than 3 months from the date of its entry into force.

## **Article 30**

1. Where the final safeguard measure has been applied in the form of a quota, its level shall be set down at the level not lower than the average quantity or value of imports of products covered by the safeguard measures during the last three representative years, for which statistical data are

available, unless other important reasons are presented to the effect that other levels of imports are necessary for preventing or counteracting serious injury.

2. Where the quota is distributed among exporting countries, the level of the quota for each country may be set down in agreements with those countries, which have a substantial interest in supplying the products covered by safeguard measures into the Polish customs territory.

3. Where the agreement referred to in paragraph 2 is not reached, the quota shall be distributed among exporting countries in proportion to the level of imports of the products to the Polish customs territory during a representative period, taking into account factors which influence or may influence trading in such products.

4. Where the basis for establishing quotas is not the threat of causing serious injury, and consultations with the authorities of the exporting country were conducted in co-operation with the WTO Committee for Safeguard Measures, the minister responsible for the economy may depart from conditions for distributing the quota referred to in paragraphs 2 and 3, if:

- (1) proceedings show that imports from one or a greater number of countries have increased disproportionately in relation to the total imports of the products into the Polish customs territory during the previous representative period;
- (2) the criteria adopted for such departure sufficiently take into account the interests of all countries exporting the product covered by safeguard measures.

5. Quotas established for products imported from countries that are not members of the WTO shall be no less restrictive than measures imposed for products imported from WTO member countries.

### **Article 31**

1. Additional customs duties shall be assessed and collected by the customs authorities.

2. Where final additional customs duties are established, the customs authority shall summon the debtor to pay the amount resulting from such duties. The amount of difference shall not be collected if the final additional customs duties are higher than the provisional duties. If the final additional customs duties are lower than the provisional additional customs duties, the customs authority which collected the security amount shall refund the difference upon receipt of written application of the party concerned, including the original security deposit receipt that had to be furnished in order to grant the products a customs destination.

3. The customs authority shall refund the security deposited pursuant to Article 22 upon receipt of a written application of the party concerned, including the original proof of payment and documents that had to be furnished in order to grant the products a customs destination, subject to payment of the amounts resulting from the additional customs duties.

4. Provisions of Article 26 paragraph 3 shall apply accordingly.

5. In cases where proof of the product's origin is retrospectively presented and the customs authority establishes that no safeguard measure applies to such products, the additional customs duties, collected pursuant to paragraph 2, shall be refunded in accordance with the provisions of the customs law. No interest shall be paid on the refunded amount by the customs authority.

## **Article 32**

1. Where quotas or non-automatic trade registration are introduced, trade in products classified according to such customs tariff code as the products covered by safeguard measures shall be subject to the provision of documents as to the origin of the product in accordance with the provisions of the customs law. If this condition is not met, the provision of Article 59 of the Customs Code shall apply accordingly.
2. Where additional customs duties are established, admitting commerce in products classified under the same customs tariff code as the products subject to a safeguard measure shall be subject to the provision of proof as to the origin of the product in accordance with the provisions of the customs law. If this condition is not satisfied, additional customs duties shall be applied.

## **CHAPTER 4**

### **Review and verification proceedings**

## **Article 33**

1. If the period of application of a safeguard measure exceeds 3 years, the minister responsible for the economy shall perform an interim review prior to the expiration of half the period for which the safeguard measure is applied in order to determine whether the further application of the measure is justified.
2. The minister responsible for the economy shall instigate interim review proceedings referred to in paragraph 1.
3. The provisions of Chapter 3 shall apply to the interim review proceedings accordingly.
4. Data and information concerning the period of application of the measure shall be examined in the course of interim review proceedings.
5. Upon completion of interim review proceedings, the minister responsible for the economy shall:
  - (1) complete, by way of a decision, the interim review proceedings without changing the application of the safeguard measure if the prerequisites referred to in Article 3 have not changed; or
  - (2) repeal, by way of an ordinance, the ordinance establishing the final safeguard measure if no excessive imports are noted or if this is in the public interest; or
  - (3) amend, by way of an ordinance, the earlier ordinance establishing a the final safeguard measure by setting down the detailed principles for the gradual liberalisation of the application of that measure, if the prerequisites referred to in Article 3 have changed.

## **Article 34**

1. In order to extend the period of application of the final safeguard measure, the minister responsible for the economy shall, by way of a decision, instigate sunset review proceedings.

2. Sunset review proceedings may be instigated not sooner than 3 months from the date of introduction of the final safeguard measure and not later than 9 months before the completion of the application of this measure.
3. The provisions of Chapter 3 shall apply to sunset review proceedings accordingly.
4. Data and information concerning the period of application of the measure shall be examined in the course of sunset review proceedings.
5. The minister responsible for the economy shall, not later than within 9 months from the instigation of review proceedings:
  - (1) complete, by way of a decision, the sunset review proceedings without extending the final safeguard measure; or
  - (2) amend, by way of an ordinance, the ordinance establishing a final safeguard measure by extending the measure.
6. The minister responsible for the economy may, by way of an ordinance, extend the period of application of a safeguard measure, save for paragraph 7, if the sunset review proceedings establish that further application of the safeguard measure is necessary in order to remedy or prevent serious injury to the domestic industry and to facilitate adjustments in the domestic industry. Concurrently with extending the period of application of the safeguard measure, the minister responsible for the economy shall propose a schedule for its gradual liberalisation.
7. A safeguard measure introduced on the basis of finding that imports of the product concerned into the Polish customs territory only threaten to cause serious injury to the domestic industry producing like or directly competitive products shall not be extended.
8. The total period of application of a safeguard measure shall not exceed 8 years.
9. Safeguard measure referred to in paragraph 6 shall not be more restrictive than it was at the end of the last period of liberalisation, as set down in the ordinance referred to in Article 28 paragraph 1.

#### **Article 35**

1. A safeguard measure shall not be applied again for two years, as from the day on which the ordinance establishing a safeguard measure expired or was repealed, with respect to imports of a product in relation to which the safeguard measure was established for a period of less than 2 years.
2. A safeguard measure shall not be applied again for a period of time equal to that for which such measure had been previously applied, provided that the period of application is longer than 2 years.
3. Safeguard measures with a period of application not longer than 6 months may be applied again to the imports of the same product if:
  - (1) at least 1 year has elapsed from the date of application of a safeguard measure on the imports of that product, and

- (2) such a safeguard measure has not been applied on the same product more than twice in the five-year period immediately preceding the date of repeated application of the measure.

## CHAPTER 5

### Control by the Supreme Administrative Court

#### Article 36

1. Complaints against decisions issued by the minister responsible for the economy in the course of safeguard investigation proceedings, as well as against decisions on non-examination of an application for initiation of safeguard investigation proceedings, on the discontinuation of safeguard investigation proceedings, on the refusal to instigate safeguard investigation proceedings, on the completion of safeguard investigation proceedings without applying any safeguard measures, on the completion of safeguard verification proceedings without altering the scope of application of a safeguard measure, on the completion of review proceedings without extending the validity of an ordinance establishing a final safeguard measure, may be brought in by the parties before the Supreme Administrative Court in case of their non-compliance with the law within 30 days of delivery thereof.

2. Complaints shall be brought in and examined under procedures set forth in the Law on the Supreme Administrative Court of 11 May 1995 (Official Journal of Laws No. 74, item 368 and No. 104, item 515 of 1997, No. 75, item 471, No. 106, item 679, No. 114, item 739 and No. 144, item 971 of 1998, No. 162, item 1126 of 1999, No. 75, item 853, and of 2000 No. 2, item 5, No. 48, item 552, No. 60, item 704 and No. 91, item 1008), save for provisions of Article 34.

3. The bringing in of a complaint before the Supreme Administrative Court shall not suspend the enforcement of the decision against which a complaint has been brought in, unless the Court decides otherwise.

## CHAPTER 6

### Final provisions

#### Article 37

Proceedings initiated and not completed prior to entry into force of this Law shall be examined pursuant to hitherto provisions.

#### Article 38

The Law of 11 December 1997 on Safeguards Against Excessive Imports of Products into the Polish Customs Territory (Journal of Laws No 157, item 1027) is hereby null and void.

#### Article 39

This Law comes into force 1 month from the date of publication.

President of the Republic of Poland,  
*A. Kwaśniewski*

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