

THE LAW AMENDING THE LAW ON TRADE

Article 1

Article 8, paragraph 3 of the Law on Trade ("Official Gazette", No. 11/96 and 101/98) changes and reads as follows:

"- natural persons engaged in agricultural production, when they sell their products in shops".

Paragraph 2 is added after paragraph 1, and reads as follows:

"The procedure and conditions for carrying on retail sale, as well as the kind of goods under item 4, paragraph 1 above will be regulated by the minister"

Article 2

Article 9, paragraph 2, word "and" is added after word "is".

Article 3

Article 10a is added after Article 10, and it reads as follows:

"Article 10a

Exceptionally from Article 10 of the present Law, the Government of the Republic of Croatia (hereinafter referred to as "Government") may determine that the wholesale trade of certain goods is carried on only in special premises or wholesale warehouses.

The regulation under paragraph 1 hereof determines special requirements with regard to premises or wholesales warehouses, the conditions for storing goods that enable the protection of human life and health and environment."

Article 4

Article 14 paragraph 3 changes and reads as follows:

The sale of goods on a bench outside market, at a kiosk, by vending machines, by street vendors and at occasional sale may be carried out only in a place determined in a regulation issued by competent local self-government body."

Article 5

Article 15, paragraph 4, brackets and wording "Republic of Croatia (hereinafter: "Government") is deleted.

Article 6

In Article 16, paragraph 2 is added after paragraph 1, and it reads as follows:

"The term, special form of trade, shall mean in particular: exclusive distribution, selective distribution, franchising, distance sale and door to door sale."

Article 7

Articles 16a, 16b, 16c, 16d and 16e are added after Article 16, and they read as follows:

"1 - Exclusive distribution Article 16a

On the basis of a Contract on Exclusive Distribution concluded between a supplier - producer or wholesale trader (hereinafter: producer) and distributor - retail trader, the producer is obliged to deliver certain goods to distributor for further sale in certain area, while the distributor is obliged to sell the goods in his name and on his behalf according to the rules of sale determined by the producer.

The producer may deliver the same goods to other retail traders in the area determined by the contract under paragraph 1 above, under condition that they do not sell the goods in the area determined by the contract on exclusive sale.

The producer is obliged in the area determined by the contract under paragraph 1 above; to sell goods and relinquish rights exclusively to the distributor with whom he has concluded the contract on distribution within purchase and sale arrangements which regulate the conditions and way of sale in detail; fulfil all orders within limits of reasonable quantities and delays; to transfer know how, technical and commercial assistance to the distributor, train him for special sale and servicing of products under contract; not to sell the goods under contract through own business units or agents in the same area.

The distributor is obliged; to purchase minimum quantities of goods under contract in a particular period; organise consumer and guarantee services accompanying the goods under contract; comply with prices, follow instructions, and observe the producer's standards and enable the supervision of its business operations; to employ a person having necessary technical qualifications; not to compete with the producer and to sell the goods and comply with other exclusive rules as per contract; to decorate and maintain accordingly business premises

and warehouses, to sell the products under contract with the seal of the producer or in package and presented as it was determined by the producer; to advertise the product as it was accepted by the producer; to inform the producer on his work and financial results.

2. Selective distribution Article 16b

In the contract on selective distribution a producer conditions sale of goods only to the distributor who complies with special requirements of the producer with relation to qualifications of the staff, servicing, appearance and location of the premises intended for sale.

3. Franchising Article 16c

By the contract on franchising, the franchise-producer, specialised wholesale trader and the company which has developed a successful service providing business grants a franchise to the receiver, a wholesale trader or the company engaged in providing services to use the franchise in order to sell certain kind of goods or/and services.

4. Distance sale Article 16d

The trader organises on the basis of a contract on distance sale, the sale through a communication media for distance sale. The contract is concluded between trader and consumer, and before concluding the contract, one or more media for distance communication are used.

5. Door to door sale Article 16e

Only legal persons registered for such activities may conclude contracts on door to door sale.

Independent commercial agents, independent entrepreneurs, independent traders and distributors, employed or self-employed representatives, franchisers or the like are entitled to be direct sellers. The legal person under paragraph 1 hereof issues an identification card to direct sellers in order to be able to work with consumers

Article 8

Article 17, paragraph 2, after wording "Minister in charge of trade", brackets and the following wording are added: "(hereinafter: Minister)".

Article 9

Article 24 changes and reads as follows:

"The Government may determine the same conditions for the imports of goods whose characteristics require special handling and storage and that the special conditions are specified for at the domestic market in accordance with Article 10a of the present Law."

Article 10

In Article 25, paragraph 2, after the wording "Croatian Chamber of Economy, the wording "and customs authorities of the Republic of Croatia" is added.

Article 11

Article 38 changes and reads as follows:

"The Government may apply a relevant safeguard measure (hereinafter "a measure") to a product, if it has determined that such product is being imported in such increased quantities, absolute or relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to the domestic industry that produces like or directly competitive products.

The measures under paragraph 1 shall be applied to an imported product irrespective of its source.

The measures under paragraph 1 may be applied only if the existence of the causal link between an increased import of the product and serious injury and threat thereof for domestic production is determined in an investigation.

If the investigation under paragraph 3 above determines that the increased imports of certain goods done in the same period did not caused injury to the domestic industry but that it was caused by other factors, the measures under paragraph 1 above shall not be applied.

The Ministry carries out the investigation under paragraph 3 above. The investigation includes public notice on the intention to apply measures to all interested parties and public hearings in which interested parties may submit their views and evidence on the public interest in the application of a proposed measure.

During the investigation under paragraph 3 above, the Ministry evaluates all relevant factors of an objective and quantifiable nature, in particular in relation to the situation in the industry concerned, the total increase of imports of the product concerned in absolute and relative terms, the share of the domestic market taken by increased imports, capacity utilisation, profits or losses and the influence of the increased imports on employment in the industry concerned, as well as other circumstances relevant in the assessment of the situation. The Ministry publishes reports containing the findings and decisions during the investigation in accordance with the Law.

The Ministry is obliged to treat with care any information collected in the investigation, which are confidential for certain economic entities. Such information shall not be disclosed without permission of the party submitting it. If it estimates it necessary for the investigation, parties providing confidential information may be requested to furnish non-confidential summaries thereof or explanations. However, if the Ministry finds that the request for confidentiality is not warranted and if the party concerned is either unwilling to make the information public or to authorise its disclosure in generalised or summary form, the Ministry may disregard such information unless it can be demonstrated to their satisfaction from appropriate sources that the information is correct."

Article 12

Articles 38 a and 38 b are added after Article 38, and they read as follows:

"Article 38 a

For the purposes of this Law, the terms under Article 38 of the present Law have the following meanings:

- a) "serious injury" shall be understood as a significant overall impairment in the position of a domestic industry;
- b) "threat of serious injury" shall be understood to mean an assessment of the existence of threat of serious injury in the position of a domestic industry;
- c) "domestic industry" - shall be understood to mean the producers as a whole of the like or directly competitive products operating in the Republic of Croatia, or those whose collective output of the like or directly competitive products constitutes a major proportion of the total domestic production of those products.

Article 38 b

If a quantitative restriction under Article 40 of this Law is introduced, such a measure under Article 38 of this Law, shall not reduce the quantity of imports

below the level of a recent period which shall be the average of imports in the last three representative years, unless clear justification is given that a different level is necessary to prevent or remedy serious injury.

In cases where a quota is allocated among supplying countries, the Government of the Republic of Croatia may seek agreement with respect to the allocation of the substantial shares in the quota with all supplying WTO member countries, the way and their share in that allocation. In cases in which this method is not reasonably practicable, the Government of the Republic of Croatia shall allot to the countries mentioned above the shares based on the proportions, supplied by such countries during a previous representative period, of the total quantity or value of imports of the product, due account being taken of any special factors which may have affected or may be affecting the trade in the product.

Notwithstanding the provisions of paragraph 2 above, the Government of the Republic of Croatia may change the way of allocating quota:

- (a) provided that the imports from a country WTO member have increased in disproportionate percentage in relation to the total increase of import of the product concerned in the representative period,
- (b) provided that the reasons for the departure are justified, and
- (c) the conditions of such departure are equitable to all suppliers of the product concerned.

The duration of any measure under Article 38 of the present Law shall not be extended beyond the initial period under Article 39 a, even in case of a serious injury of domestic industry.

Article 13

Article 39 changes and reads as follows:

In critical circumstances, where the delay of the measures under Article 38 above would cause damage difficult to repair, the Government may take a provisional safeguard measure pursuant to a preliminary determination that there is clear evidence that the increased imports have caused or are threatening to cause serious injury to the domestic industry.

Such provisional measures under paragraph 1 above should take the form of tariff increases.

The duration of the provisional measure shall not exceed 200 days. The requirements for taking measures determined under Articles 38, 38a and 38 b apply also to provisional measures under paragraph 1 above.

Such measures that take the form of tariff increases should be promptly refunded to the importers concerned if the subsequent investigation does not determine that the increased imports have caused or threatened to cause serious injury to a domestic industry.

The duration of any such provisional measure shall be counted as a part of the initial period and any extension referred to in Article 39a hereof.

Article 14

Articles 39 a, 39 b and 39 c are added after Article 39 and read as follows:

"Article 39 a

Safeguard measures under Article 38 above shall be applied only for such period of time as may be necessary to prevent or remedy serious injury and facilitate adjustment. The period shall not exceed four years.

The period under paragraph 1 above may exceptionally be extended provided that the Ministry has determined that the safeguard measure continues to be necessary to prevent or remedy serious injury and that there is evidence that the industry is adjusting. In that case, measures may not be more restrictive than the present measures.

The ministry is obliged to follow up the effects of the measure under paragraph 1 and if necessary, propose to the Government to liberalise it.

The total period of application of a safeguard measure including the period of application of any provisional measure, the period of initial application and any extension thereof, shall not exceed eight years.

In order to facilitate the adjustment in a situation where the expected duration of a safeguard measure is over one year, the Government shall progressively liberalise the measure at regular intervals during the period of application. If the duration of the measures exceeds three years, the situation shall be reviewed not later than the mid-term of the measure and, if appropriate, the measure shall be withdrawn or the pace of liberalisation increased.

The Government shall not apply safeguard measures again to the import of a product that has been subject to such a measure for a period of time equal to that during which such measure had previously been applied, provided that the period of non-application is at least two years.

In exceptional cases, safeguard measures with duration of 180 days or less may be applied again to the import of a product if at least one year has elapsed since

the date of introduction of a safeguard measure on the import of that product and if such a safeguard measure has not been applied on the same product more than twice in the five year period.

Article 39b

In case of the introduction of measures under Article 38 of the present Law, the Government may agree to grant adequate trade compensation for the adverse affects that the application or the extension of a safeguard measure in the Republic of Croatia may have on the trade of other countries.

The Government shall not apply the safeguard measures under Articles 38 and 39 against a product originating in a developing country - member to the World Trade Organisation, as long as its share of imports of the product concerned in the Republic of Croatia does not exceed 3 per cent, provided that developing countries, members to the WTO with less than 3 per cent import share collectively account for not more than 9 per cent of total imports of the product concerned.

Article 39 c

The Government of the Republic of Croatia will issue special regulations on the implementation of Articles 38, 38a, 38b, 39, 39a and 39b of the present Law.

Article 15

Article 40 changes and reads as follows:

"The Government may impose import quotas for balance of payments purposes as well as for the implementation of measures under Article 38 of the present Law.

The Government may impose export quotas for the purpose of conservation of exhaustible natural resources of the Republic of Croatia on if it prescribes in parallel the appropriate measures to limit the trade of those goods in the Republic of Croatia.

Import and export quotas under paragraphs 1 and 2 above are imposed in compliance with international agreements that the Republic of Croatia entered into.

Article 16

Article 42, paragraph 5 changes and reads as follows:

The Customs Directorate of the Republic of Croatia is obliged to submit the data on imported and exported goods subject to quota to the Ministry at least once a year.

Article 17

Article 48 changes and reads as follows:

"The Government of the Republic of Croatia may impose an anti-dumping duty on a product that is imported at less than its normal value (dumping) if it has been determined by the Ministry in charge of trade that the dumped imports cause or threaten to cause material injury to a domestic industry or material retardation of the establishment of such an industry in the Republic of Croatia.

A product is to be considered as being introduced into the commerce of the Republic of Croatia at less than its normal value (dumping) if the price of the imported product is less than the comparable price for the like product in the ordinary course of trade when destined for consumption in the exporting country.

In the absence of such domestic price, or when, because of the particular market situation or the low value of trade in the domestic market of the exporting country, such sales do not permit a proper comparison, the comparable price shall be understood as:

- the price of the like product when exported to an appropriate third country, provided that this price is representative, or
- the cost of production in the country of origin plus a reasonable amount for administrative, selling and general costs and for profits."

Article 18

Article 49 changes and reads as follows:

"An application for the imposition of an anti-dumping duty may be made by the domestic producers as a whole of the like product or the producers whose collective output of the like product constitutes a major part of the total domestic production.

The application shall be made in written to the ministry. An investigation shall not be initiated unless the Ministry has determined that the request was made by or on behalf of the domestic producers of the like product.

An application under paragraph 1 shall include evidence of:

- dumping
- injury within the meaning of Article VI of GATT 1994, and

- causal link between the dumped imports and the alleged injury.

If, in special circumstances, the Ministry decides to initiate an investigation without having received a written application by or on behalf of a domestic industry for the initiation of such an investigation, it shall proceed only if it has sufficient evidence of dumping, injury and a causal link as describe in paragraph above, to justify the initiation of an investigation.

The anti-dumping duty under Article 48 of the present Law shall not be higher than the margin of dumping found as a result of the investigation, i.e. the price difference determined in accordance with Article 48 of the present Law. The duty may be less than the margin of dumping if such lesser duty would be adequate to remove the injury to the domestic industry.

The anti-dumping duty shall remain in force only as long as and to the extent necessary to counteract dumping which is causing injury. The Ministry shall review the need for the continued imposition of the duty, there warranted, on its own initiative or, provided that a reasonable period of time has elapsed since the imposition of the duty, upon request by any interested party which submits positive information substantiating the need for a review.

The Government shall regulate the procedure and the way of determination of anti-dumping duty.

Article 19

Article 50 changes and reads as follows:

"The Government of the Republic of Croatia may impose a countervailing duty on a product that is imported if it has been determined by the Ministry that:

- the product has benefited from a production or export subsidy in the country of origin or country of exportation, except in situations where the subsidy in question is non-actionable in accordance with relevant international agreement,
- the subsidised imports cause or threaten to cause material injury or threatens to cause injury to a domestic industry or material retardation of the establishment of such an industry."

Article 20

Article 51 changes and reads as follows:

An application for the imposition of a countervailing duty must be made by the domestic producers as a whole of the like product or the producers whose

collective output of the like product constitutes a major part of the total domestic production.

An application is made in written form to the Ministry. An investigation shall not be initiated unless the Ministry has determined that the request was made by or on behalf of the domestic producers of the like product in the Republic of Croatia.

An application under paragraph 1 shall include sufficient evidence of:

- the existence of a subsidy and, if possible, its amount
- injury within the meaning of Article VI of GATT 1994 and
- causal link between the subsidised imports and the alleged injury.

If, in special circumstances, the Ministry decides to initiate an investigation without having received a written application under paragraphs 1 and 2 above by or on behalf of a domestic industry for the initiation of such an investigation, it shall proceed only if it has sufficient evidence of the existence of a subsidy, injury and a causal link, as described in paragraph 2, to justify the initiation of an investigation.

The Ministry shall, after the completion of the investigation, determine whether all requirements of the imposition of a countervailing duty have been fulfilled and whether the amount of this duty shall be the full amount of the subsidy or less. The duty may be less if such lesser duty would be adequate to remove the injury to the domestic industry.

The countervailing duty shall remain in force only as long as and to the extent necessary to counter-act subsidisation that is causing injury. The Ministry shall review the need for the continued imposition of the duty, where warranted, on its own initiative or upon request by any interested party which submits positive information substantiating the need for a review."

The Government shall regulate the procedure and the way of determination of countervailing duty.

Article 21

Paragraph 2 is added after paragraph 1 of Article 53, and it reads as follows:
The reciprocity condition under paragraph 1 above is not applied to foreigners having their seat or permanent residents in the World Trade Organisation member countries.

Paragraph 2 becomes paragraph 3.

Article 22

Article 54 a is added after Article 54 which reads as follows:

"Article 54 a

Domestic and foreign natural persons temporary entering into the Republic of Croatia or temporary departing for a foreign country, may temporary import, bring in or receive from abroad, or export, take out and send abroad objects that they need during their temporary stay in the Republic of Croatia or abroad.

Objects temporary imported, brought in or exported or taken out under paragraph 1 above may be used only for the purposes that they were temporary imported, brought in or exported or taken out.

Domestic and foreign natural persons are obliged, after the expiry of a determined period, to bring back the objects brought in or taken out to the Republic of Croatia or abroad or to clear them through the customs".

Article 23

The wording of item 9 in Article 58: "regardless of whether the other trader has consented to it, if this creates confusion or could create confusion on the market" is deleted.

Article 24

Article 62 a is added after Article 62 that reads as follows:

"Article 62 a

If the authorised inspector finds out during his examination that the wholesale trade of certain goods is not carried out in appropriate premises or warehouses or that certain goods are being imported contrary to the requirements, he will issue a decision temporarily suspending trading until the irregularities have been rectified.

An appeal against the decision will not postpone implementing the decision."

Article 25

In Article 64, paragraphs 1 and 3, the words "market and of the market" are deleted.

Article 26

Article 66 changes and reads as follows:

A legal person shall be fined with 50,000 to 210,000 kunas for a violation:

- if he carries out trade with foreign countries contrary to the specified conditions (Article 24),
- if he performs compensation deals without approval (Article 34)
- if he buys goods abroad for selling them abroad or imports or temporarily imports the goods bought abroad, contrary to the provision on restriction of such deals (Article 35),
- if while importing, he does not conform with the safeguard measures which have been imposed to eliminate disruptions in the market (Article 38 and 39),
- if he does not conform to the measures which have been imposed to eliminate disruptions in the market (Article 56),
- If he performs an activity representing, under this Law, an unfair competition practice (Article 58)

For the violations under paragraph 1 above, the responsible natural person within the legal person liable for the business violations shall be fined with 10,000 to 60,000 kunas.

Article 27

Article 67 changes and reads as follows:

A legal person shall be fined with 30,000 to 150,000 kunas for the violation:

- if he carries on retail sale contrary to the conditions prescribed (Article 8);
- if he carries on wholesale in the premises which do not meet specified requirements (Article 10 a),
- if he carries on retail sale in the premises that do not meet specified requirements (Article 13),
- if the conditions for sale of goods outside shop are not met and if such a sale is carried out off the location determined by the competent local government body (Article 14),
- if he sells goods at auctions contrary to the specified conditions (Article 15),
- if he carries out retail or whole sale in premises that were not issued the decision by an authorised body that determines that the premises meet the conditions necessary for carrying out trade activities (Article 17);
- if he does not abide to the specified working hours (Article 19),
- if he does not keep records concerning purchase, sale and price of goods as well as the inter mediation performed (Article 20),

- if contrary to this Law or any other regulation issued on the basis of this Law, he exports or imports goods without the relevant certificate or an authorised document (Article 25),
- if he fails to meet the specified date for the return of temporary exported or imported goods (Articles 28, 33 and 35);
- if he used temporary imported or exported goods for other purposes than the purpose for which it was intended when it was temporary imported or exported (Articles 28, 33 and 35);
- if he collects the payment for the improvement of goods carried out, without the approval of the Ministry (Article 32),
- if he imports or exports goods without approved quota (Article 42) or license (Articles 46 and 47)
- if he does not export or import goods within the period determined by the approval (Article 43),
- if he does not inform the Ministry on the foundation of a firm or a branch office in a foreign country (Article 52),
- if he does not enter the representative office into the Register of representative offices prior to opening of this office in the Republic of Croatia (Article 53);
- carries out activities of the representative office contrary to the provisions of this Law (Article 53).

For the violations under paragraph 1 above, the responsible natural person within the legal person liable for the business violations shall be fined with 10,000 to 50,000 kunas.

Article 28

In Article 69, after item 1, item 2 is added which reads as follows:

"- if he is treating temporary exported goods, carried or sent abroad, or temporary imported goods, carried or received in the Republic of Croatia contrary to the provisions of this Law (Article 54 a)."

Article 29

In Article 70, paragraph 1 changes and reads as follows:

"For the offences under Article 66 items 1 to 5, Article 67 items 2,5,11 and 13 and Articles 68, in addition to the payment of the fine, a protective measure of dispossession of material benefits gained through the offence and dispossession of the objects which were used or were intended to be used to commit the offence or resulted from committing the offence, will be applied.

A paragraph 2 is added after paragraph 1, which reads:

" The offence under Article 67, paragraph 1, item 11 and Article 69 of the present Law, in addition to the payment of a fine, a protective measure of the dispossession of the objects which were used or were intended to be used to commit the offence of resulted from committing the offence, will be applied."

Paragraph 2 becomes paragraph 3.

Article 30

In Article 71, paragraph 1, the wording "Item 3 and 4" is replaced by the wording "Item 2 and 3" and the wording "item 9 and 10" is replaced by "item 11 and 14".

In paragraph 2 the wording "item 8" is replaced by the wording "item 10 and 11".

Article 31

Paragraph 3 in Article 73 is deleted.

Article 32

Wordings "Minister" and "Ministry" replace the wordings "Minister in charge of trade and Ministry in charge of trade" throughout the whole text of the Law.

Article 33

Upon the entrance into force of this Law, the Decree Amending the Law on Trade ("Official Gazette", No. 101/98) will be out of force.

The regulations on special conditions for the carrying out wholesale trade and foreign trade with certain products issued on the basis of this Decree Amending the Law on Trade shall remain in force.

Article 34

The minister shall adopt the regulation under Article 1, paragraph 2 of the present Law within the period of six months from the day this Law enters into force.

The Government shall adopt regulations under Articles 14, 18 and 20 of the present Law within the period of twelve months from the day this Law enters into force.

Article 35

This Law enters into force the eighth day of its publication in the "Official Gazette".

Class: 330-01/95-01/01
Zagreb, June 30, 1999

**HOUSE OF DEPUTIES
CROATIAN NATIONAL PARLIAMENT**

President of the House of Deputies
of the Croatian National Parliament

Academician Vlatko Pavletić, signed