

LAW ON FOREIGN TRADE

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I. GENERAL PROVISIONS

Article 1

This Law shall govern foreign trade operations, in particular, terms of conduct of foreign trade, carrying out commercial activities abroad and import and export safeguard measures.

Article 2

For the purposes of this Law:

- *threat of serious injury* - shall be understood to mean serious injury to the position of the domestic industry that is clearly imminent.
- *serious injury* – shall be understood to mean a significant overall impairment in the position of a domestic industry.
- *injury* – shall be understood to mean material injury to a domestic industry, threat of material injury to a domestic industry or material retardation of such industry.
- *domestic industry* – shall be understood to mean the domestic producers of the like or directly competitive products operating within the territory of the Republic of Macedonia, or those whose collective output of the like or directly competitive products constitutes a major proportion of the total domestic production of those products.
- *subsidized imports* – shall be understood to mean goods imported in the Republic of Macedonia that are subject to indirect or direct support of the production or export by the country of origin or export.
- *dumping* – shall be understood to mean goods imported in the Republic of Macedonia at less than that their normal value.
- *anti-dumping duties* – shall be understood to mean duties in amount not to exceed the dumping margin of the goods in question.
- *dumping margin* - shall be understood to mean the difference between the normal price and the dumped import price of the goods in question.
- *normal value for the purposes of dumping* - shall be understood to mean the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country .

Article 3

Trade companies and other legal entities (hereinafter referred to as “company(ies)”) registered for trading may engage in foreign trade and commercial activities abroad.

Article 4

The right to conduct foreign trade operations shall be acquired by virtue of entering a company into the Trade Registry on the date of such registration.

II. TERMS FOR CONDUCT OF FOREIGN TRADE OPERATIONS

Types of Imports and Exports

Article 5

Imports and exports of goods shall be free (LB).

Particular goods may be imported or exported subject to a licence (D) in cases of enforcement of international agreement, imports and exports of arms and military equipment and imports and exports of historic and works of art and certain precious metals.

In order to put trade in goods and services in conformity with certain countries and regions, imports and exports of particular products may be subject to approval for regional allocation.

Import and export licences as required by international agreements, licences for import and export of certain precious metals and the approval referred to in paragraph 3 of this Article are issued by the Ministry of Economy.

Import and export licences for arms and military equipment are issued by the Ministry of Defense and/or the Ministry of Internal Affairs, and the import and export licences for historic and works of art are issued by the Ministry of Culture.

Article 6

The Government of the Republic of Macedonia (hereinafter referred to as the “Government”) classifies goods into types of imports and exports and determines the goods the imports and exports of which are regionally directed.

Article 7

Companies may enter into contracts with foreign persons for the purpose of representing foreign persons in the Republic of Macedonia or for trading in foreign goods from consignment storages, exclusive of goods subject to payment of excise taxes pursuant to law.

The contracts referred to in paragraph 1 of this Article shall be concluded in writing and recorded at the Ministry of Economy.

The companies referred to in paragraph 1 of this Article shall provide service, supplies, equipment and spare parts for maintaining the imported equipment and the durable goods for

personal consumption in compliance with the regulations governing trade in goods on domestic markets, over a period of not less than three years.

The companies referred to in paragraph 1 of this Article may entrust the provision of services with other domestic companies or entrepreneurs.

A company engaging in provision of services in the foreign trade may represent foreign persons for the type of services that it provides in the foreign trade without being registered in the trade Registry for representation of foreign persons.

The Government prescribes in detail the terms for the conduct of the activities referred to in paragraph 1 of this Article.

Intermediation

Article 8

A company may freely purchase goods abroad and import or temporarily import such goods for the purpose of re-export, or directly trade with such goods abroad (intermediation).

The Ministry of Economy shall approve the activities referred to in paragraph 1 of this Article provided that they do not disturb the regular export of goods, or they ensure higher use of the production capacities, or operations under international agreements, or provide increased inflow of foreign currencies traded on the foreign exchange market, or decrease the due outstanding claims of certain countries, or balance the trade.

III. IMPORT AND EXPORT SAFEGUARD MEASURES

Measures Introduced to Protect Domestic Production Against Increased Imports

Article 9

If in a short period of time the imports of particular products increases, in volume or in relation to the domestic production, and if such increase causes injury or threatens to cause serious injury to the domestic production of that or like products, the Government shall apply appropriate safeguard measures (hereinafter referred to as “measures”) in order to remedy the injury and distortions caused by such imports .

Measures referred to in paragraph 1 of this Article shall be applied to all imported products irrespective of the country of their origin or the country from which they were imported.

Measures referred to in paragraph 1 of this Article may only be applied if the existence of a causal link between the increased import of the product and serious injury and threat thereof for domestic production is determined through an investigation procedure.

Should the investigation referred to in paragraph 3 of this Article determine that the injury to the domestic industry was caused by factors other than the increased imports of certain products effected at such time, the measures referred to in paragraph 1 of this Article may not be applied.

The investigation referred to in paragraph 3 of this Article shall be administered by the Ministry of Economy. All parties concerned – importers and exporters shall be invited to participate in the procedure, to present in a public hearing, or in some other appropriate way, their views and to submit evidence justifying the need for the imposition of such safeguard measures.

The Ministry of Economy shall, in the investigation referred to in paragraph 3 of this Article, evaluate all facts and evidence, in particular: the status of a particular production industry; the total increase in imports of certain goods in absolute or relative amount; the conditions on the domestic market resulting from the increased imports; the utilization of the production capacities; the status of profit or loss; the effect of the increased imports on the employment rates in a particular production industry; and other circumstances relevant to the evaluation of the situation of the domestic production of such goods.

The Ministry of Economy shall, as part of the investigation procedure, publish a report setting forth the findings and conclusions, in compliance with this Law and the regulations adopted thereunder.

The Ministry of Economy shall treat with responsibility any information collected during the investigation that are by nature confidential for certain companies and shall not publish such information without prior permission by such companies. The Ministry of Economy may request, if considered necessary for the administration of the investigation, that the parties in possession of such confidential information provide an excerpt or an explanation thereof; and if they refuse to do so, that they justify the reasons for their refusal.

Should the Ministry of Economy determine that the request for confidentiality of information is not warranted, and if the party concerned is unwilling to make such information public, completely or in part, the Ministry of Economy may disregard such information and check their correctness from other sources.

Article 10

If a delay in introducing safeguard measures referred to in Article 9 of this Law has caused an injury difficult to repair, or there is clear evidence that the increased imports of certain goods have caused or threaten to cause serious injury to the domestic industry, the Government may, upon proposal by the Ministry of Economy, prescribe a provisional safeguard measures in a form of retroactive tariff increases (customs duty as safeguard).

The authority in charge of collecting safeguard customs duties is the Customs Administration.

The duration of the provisional measure referred to in paragraph 1 of this Article shall not exceed 200 days. During that period, the Ministry of Economy shall initiate an investigation in conformity with Article 9 of this Law.

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

The duration of any such provisional measure shall be counted as a part of the total duration of the measures referred to Article 9 of this Law.

Article 11

Safeguard measures under Article 9 of this Law shall be applied only for such period of time as may be necessary to prevent or remedy serious injury and shall not exceed the period of four years.

Notwithstanding paragraph 1 of this Article, the duration of the measure may be extended provided that the Ministry of Economy has determined that the safeguard measure continues to be necessary to prevent or remedy the serious injury. In such a case, the measure may not be more restrictive than **the one already in existence**.

The Ministry of Economy shall monitor the effects of the measure under paragraph 1 of this Article and if necessary, propose to the Government to liberalize 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.

Where the expected duration of the safeguard measure referred to in Article 9 is over one year, the Government shall progressively liberalize the measure in equal time intervals during the period of application.

If the duration of the measure exceeds three years, the Government shall review, not later than the mid-term of the measure, its effects and determine whether there are conditions for its liberalization or withdrawal.

Article 12

The Government shall not apply safeguard measures to the import of a product that has already been subject to such a measure.

Notwithstanding paragraph 1 of this Article, the said product may be subject to a safeguard measure upon expiration of a period of time equal to that during which such measure had been previously applied, provided that the period of non-application is at least two years.

In exceptional cases, the Government may prescribe again safeguard measures with duration of 180 days or less to the import of a product if at least one year has elapsed since the date of the introduction of a safeguard measure on the import of that product and if such safeguard measure has not been prescribed on the same product more than twice in the preceding five year period.

Article 13

In case of introduction of measures under Article 9 of this Law, the Government may, on request from the exporting country, agree to grant such country adequate trade compensation for the adverse effects that the application or the extension of a safeguard measure in the Republic of Macedonia may have on the trade of such country.

Article 14

The Minister of Economy shall prescribe in detail the manner, procedure and terms for the implementation of the measures under Articles 9, 10, 11 and 12 of this Law.

Quantitative Restrictions or Restrictions in Value

Article 15

If it is determined that the increased import of certain goods may disturb the balance of payments of the Republic of Macedonia, or if such increased imports cause or threaten to cause serious injury to the domestic industry, the Government may, upon a proposal by the Ministry of Economy, impose safeguard measures in the form of quantitative restrictions or restrictions in value on the import of such goods.

Article 16

The Government may, upon a proposal of the Ministry of Economy, impose safeguard measures in the form of quantitative restrictions or restrictions in value, when the increased export of certain goods may cause or threatens to cause injury to the exhaustible natural resources of the Republic of Macedonia, provided that the measures, concurrently, limit the trade of such goods in the Republic of Macedonia.

Article 17

When the Government prescribes quantitative or value restrictions on goods under the measures referred to in Article 9 of this Law, the volume of goods may not be smaller than the average annual imports of such goods in the course of the preceding three years.

If distribution of the goods referred to in paragraph 1 of this Article is made among several countries, the Government may arrange with the WTO member countries with substantial interest in the exports of such goods to the Republic of Macedonia, the manner of distribution of such goods and their share in the distribution. If it is determined that such manner of distribution is not appropriate, the determined volume of goods shall be distributed in equal shares between the countries importers of the total import of certain goods in the Republic of Macedonia over a certain period of time, taking into account all other important circumstances which affect or might affect the imports of such goods.

Notwithstanding paragraph 2 of this Article, the Government may change the manner of distribution of goods if:

- imports from a certain country member of the WTO has increased in disproportionate percentage in relation to the total increase of imports of the product concerned in the representative period;
- the reasons for the departure from the distribution of goods under paragraph 2 of this Article are justified, and
- the conditions of such departure are equitable to all member countries of the WTO – suppliers of the product concerned.

The duration of the measures referred to in Article 9 of this Law shall not be extended beyond the period set forth in Article 11 of this Law, even in cases of possible threat of injury to the domestic production.

Article 18

The Government shall prescribe the criteria, conditions and terms for distribution of goods under Articles 16 and 17 of this Law.

The distribution of goods under paragraph 1 of this Article shall be administered by the Ministry of Economy, by means of licences.

Quantitative restrictions and restrictions in value (quotas) shall determine the volume of import and export of certain goods for a maximum period of one year.

The total amount of goods per quantity or value to be distributed shall be published 21 days prior to the actual distribution.

If the distribution of the goods referred to in paragraph 1 of this Article is carried out by countries of origin, quotas shall be published 21 days prior to the actual distribution.

Public tenders for quotas distribution shall be published in daily newspapers. A public tender shall contain the total amount of goods to be distributed per quantity or value, the initial and the closing date of the tender, as well as the manner of distribution.

The period for processing applications for participation in distribution of quotas shall not exceed 30 days if licenses are issued on “first-come-first-served” basis, or 60 days after the closing of the application term, if all applications are considered simultaneously.

Licenses shall be issued within a reasonable period of time.

Distribution of quotas shall be carried out on equitable basis.

Distribution of quotas shall take due account of past shares in imports and interests of applicants.

Applicants shall be informed about the results of the distribution.

Applicants who have been denied licenses shall be informed, in writing, of the reasons for such denial and they shall be entitled to file a complaint with the relevant Government committee, unless otherwise arranged by international agreements ratified by the Republic of Macedonia.

Anti-dumping Measures

Article 19

If a product is being imported into the territory of the Republic of Macedonia at a price lower than its normal value (dumping), and the investigation carried out by the Ministry of Economy determines that this product causes or threatens to cause material injury to the domestic production, or could hamper the development of the domestic production, the Government of the Republic of Macedonia shall impose an anti-dumping duty on the imports of that product.

A product is to be considered imported in the Republic of Macedonia at a price lower than its normal value (dumping), if the price of such product is lower than the comparable price, in the ordinary course of trade, for the same product when destined for consumption in the exporting country.

In the absence of information on such comparable price, or in specific conditions on the market, or when owing to small trade in certain goods in the exporting country the available information do not provide relevant comparison, the anti-dumping duty shall be established by comparing the price of the imported product with:

- the price of the same product for export to any third country market, provided that such price is relevant, or
- the costs of production of the product in the country of origin plus the normal amount for administrative fees, selling costs, general costs and profit.

Article 20

Request to levy an anti-dumping duty shall be submitted on behalf of all domestic producers of a certain product, or on behalf of those producers whose collective production constitutes a major proportion of the total domestic production of those products.

The request in a written form shall be submitted to the Ministry of Economy.

If the Ministry of Economy decides that the request has been submitted by the producers referred to in paragraph 1 of this Article or by a person authorized by them, it shall initiate an investigation procedure. The request referred to in paragraph 1 of this Article shall contain evidence of:

- the existence of dumped imports of certain goods;
- the injury to domestic production caused by the dumped imports, according to the Agreement on the Implementation of Article VI of GATT 1994

- the causal link between dumped imports and the injury caused by such imports to the domestic industry.

The Ministry of Economy may carry out the procedure without the written request by the producers, if there is enough evidence for the existence of dumped imports, as well as for injury to the domestic industry caused by the imports and for the existence of the causal link between the dumped imports and the injury, justifying the procedure.

The anti-dumping duty referred to in Article 19 of this Law may not be higher than the dumping margin. The anti-dumping duty may be lower than the dumping margin if such lesser duty would be adequate to remove the injury to the domestic industry.

The anti-dumping duty shall remain in force for the period necessary to prevent the dumping which caused injury to the domestic industry. The Ministry of Economy shall review, after a certain period of time, the need for the application of such anti-dumping duty, upon its own initiative or upon request by an interested party, if such party can justify the request for review of the anti-dumping duty.

The Government of the Republic of Macedonia shall prescribe the procedure and manner of determining an anti-dumping duty.

Measures Against Subsidized Imports

Article 21

The Government may, upon a proposal by the Ministry of Economy, impose a countervailing duty on an imported product if:

- 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 the relevant international agreement ratified by the Republic of Macedonia,
- the subsidized imports cause or threaten to cause material injury to a domestic industry or may hamper the economic development.

In the context of this Article, countervailing duty means the special duty levied for the purpose of offsetting any subsidy bestowed directly or indirectly upon the manufacture, production or export of any merchandise.

Article 22

A request for imposition of a countervailing duty shall be made by all domestic producers of certain product or by the producers whose collective output constitutes the major part of the total domestic production of such product.

The request in a written form shall be submitted to the Ministry of Economy. 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 Macedonia referred to in paragraph 1 of this Article.

The request referred to in paragraph 1 shall include sufficient evidence of:

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

The Ministry of Economy may decide to initiate the investigation referred to in paragraph 1 of this Article without having received a written request by or on behalf of the producers suffering the alleged injury, if it has sufficient evidence of the existence of a subsidy, injury and causal link to justify the initiation of an investigation.

The Ministry of Economy shall, after the completion of the investigation, determine whether there are sufficient grounds to impose a countervailing duty and shall determine the amount of such duty corresponding to the amount of the subsidy. The amount of the countervailing duty may be lower if such lesser duty would be adequate to remove the injury to the domestic industry.

The countervailing duty shall remain in force for the period necessary to remedy the injury caused to domestic production. The Ministry of Economy shall review, after a certain period of time, the need for maintaining the application of the countervailing duty, on its own initiative or upon request by an interested party which has justified the need to review such countervailing duty.

The Government shall regulate the procedure and manner of determining the countervailing duty.

IV. SURVEILLANCE OF IMPLEMENTATION

Article 23

Surveillance of the implementation of this Law and the regulations thereof shall be carried out by the Ministry of Economy.

The surveillance of the implementation of the provisions of this Law shall be carried out by the State Market Inspectorate and other inspection and customs bodies, pursuant to their authority as provided by law.

V. PENALTY PROVISIONS

Article 24

A legal entity shall be levied with a fine amounting from 80.000 to 250.000 MKD for an offence, if:

- it engages in foreign trade activities without being registered in the Trade Registry (Article 4);

- when engaging in imports and exports, it does not conform to the regulation of the Government of the Republic of Macedonia for the classification of goods by types of import and export (Article 6);
- it does not conform to the terms and conditions of a concluded agreement (Article 7);
- in its imports of goods, it does not conform to the safeguard, provisional, extended and re-introduced safeguard measures introduced for the purpose of eliminating the distortion (Articles 9, 10, 11 and 12);
- it conducts imports and exports of goods inconsistent with Articles 15, 16 and 17.

For the activities referred to in paragraph 1 of this Article, the responsible person with the legal entity shall, as well, be fined with a fine amounting from 10.000 to 50.000 MKD.

TRANSITIONAL AND FINAL PROVISIONS

Article 25

With the coming into effect of this Law, the Law on Foreign Trade (Official Gazette of the Republic of Macedonia Nos.31/93, 41/93, 78/93, 59/96, 15/97, 13/98, 13/99, 50/99, 82/99, 4/2001 and 2/2002) shall cease to be valid, with the exception of Articles 7 parafraf 5, 11a, 57a, 57b, 57g, 79, 84 item 11a, 87 item 1, 88 paragraphs 1 and 5 with regard to Articles 79 and 87 item 1, which shall be applicable until 31 December 2005.

Article 26

This Law shall enter into force on the eighth day following the date of publication in the Official Gazette of the Republic of Macedonia.