

LAW OF THE REPUBLIC OF TAJIKISTAN

ON THE STATE REGULATION OF

EXTERNAL TRADE ACTIVITIES

This Law shall define the fundamentals of the state regulation of external trade activities, the procedures of their implementation by the citizens of the Republic of Tajikistan and the foreign nationals, the rights, duties and responsibilities of the state bodies of the Republic of Tajikistan in the field of external trade activities.

Article 1. Objectives of this Law

This Law shall aim at protecting economic sovereignty, ensuring economic security of the Republic of Tajikistan, promoting the development of the economy of the Republic in the process of the implementation of external trade activities and securing the conditions for the efficient integration of the economy of the Republic of Tajikistan into the world economy.

Article 2. Notions, used in this Law

The following basic notions shall be used in this Law:

- 1) **External trade activity** means an entrepreneurial activity in the field of international exchange of goods, works, services, information and results of an intellectual activity, including the exclusive rights thereof (intellectual property);
- 2) **Goods** mean raw materials, products or any movable property (including all types of energy), foreign exchange and foreign exchange values, as well as aircraft and vessels of inland waterways navigation, which constitute a subject of the external trade activities. The transportation facilities, which are used under a contract of international transportation, shall not be deemed as goods.
- 3) **Services** mean an entrepreneurial activity, aimed at meeting the needs of other persons, with the exception of the activities, carried out on the basis of the employment legal relations;
- 4) **Exports** mean an exportation of goods, works, services and results of an intellectual activity from the customs territory of the Republic of Tajikistan, without assuming an obligation of their re-importation into this territory. The case of an export activity shall be established at the moment of moving the goods outside the customs territory of the Republic of Tajikistan or providing outside the territory services and results of an intellectual activity.

Individual commercial operations without the exportation of the goods from the customs territory of the Republic of Tajikistan, including the transactions, related to the purchasing by a foreign national of the goods from a citizen of the Republic of Tajikistan and the transfer of these goods to another citizen of the Republic of Tajikistan with a view to their processing and subsequent exportation of the processed goods abroad, shall be equaled to the export of the goods;

- 5) **Imports** mean an importation of goods, works, services and results of an intellectual activity into the customs territory of the Republic of Tajikistan, without assuming an obligation of their re-exportation. The case of an import activity shall be established at the moment of moving the goods into the customs territory of the Republic of Tajikistan or providing in the territory services and results of an intellectual activity.
- 6) **Domestic participants in the external trade activities** mean the legal persons, which are established in accordance with the laws of the Republic of Tajikistan and which are located on a permanent basis in its territory, as well as the natural persons, who have a permanent residence in the territory of the Republic of Tajikistan and who are registered as individual entrepreneurs;
- 7) **Foreign participants in the external trade activities** mean the legal persons and organizations having other legal forms, whose civil legal capacity shall be defined by virtue of the law of a foreign state, in which they have been established; and the natural persons, whose civil legal capacity shall be defined by virtue of the law of a foreign state, whose citizens they are, and stateless persons, whose civil legal capacity shall be defined by virtue of the law of a foreign state, in which they reside on a permanent basis;
- 8) **Economic security** means a state of the economy, which ensures a sufficient level of social, political and defense existence and progressive development of the Republic of Tajikistan, invulnerability and independence of its economic interests in the face of possible external and internal threats and impacts.

Article 3. Legislation of the Republic of Tajikistan in the field of external trade activities

The legislation of the Republic of Tajikistan in the field of external trade activities shall be based upon the Constitution of the Republic of Tajikistan and it shall include this Law, other laws of the Republic of Tajikistan, as well as the international treaties, which are recognized by the Republic of Tajikistan.

Article 4. Basic principles of the state regulation of the external trade activities

The basic principles of the state regulation of external trade activities in the Republic of Tajikistan shall be as follows:

- Unity of the external trade policy, as an integral part of the external economic policy of the Republic of Tajikistan;
- Unity of the system of external trade activities and the supervision and control over their implementation;
- Priority, assigned to the economic measures in the field of the state regulation of external trade activities;
- Equality of the participants of external trade activities;
- Protection by the state of the rights and legitimate interests of the participants of external trade activities.

Article 5. External trade policy of the Republic of Tajikistan

The relations of the Republic of Tajikistan with the foreign states in the field of external trade activities shall be built upon the observance of the universally recognized standards of international law and the obligations, arising out of the international treaties of the Republic of Tajikistan.

With a view to integrating the economy of the Republic of Tajikistan into the world economy, the Republic of Tajikistan shall take part in the international treaties on customs unions and free trade areas, which are based upon the establishment of a common customs territory, without applying the measures of the customs and tariff and non-tariff regulation of trade between the member countries of these unions and the countries, which take part in the activities, carried out in the free trade areas.

Article 6. Powers of the state bodies of the Republic of Tajikistan in the field of external trade activities

The powers of Majlis Oli of the Republic of Tajikistan shall be as follows:

- giving an authorization to grant and obtain state credits, as well as a consent to rendering economic assistance to other states, their legal persons and international organizations.

The powers of the Government of the Republic of Tajikistan shall be as follows:

- elaboration of the concept and the strategy of the development of external trade relations, as well as the basic principles of external trade policy of the Republic of Tajikistan;
- ensuring the economic security and the protection of economic sovereignty and the economic interests of the Republic of Tajikistan;

- implementation of the measures, aimed at protecting the internal market of the Republic of Tajikistan;
- state regulation of external trade activities, including the financial regulation and customs and tariff and non-tariff regulation;
- formulation of the policy in the field of certification of goods in connection with their importation and exportation;
- introduction of the standards and criteria of safety and/or harmlessness for the human health in the process of goods exportation, which shall be subject to compulsory application in the whole territory of the Republic of Tajikistan, as well as the rules of the supervision and control over them;
- establishment of the procedure of exporting and importing fissionable materials, toxic agents, explosives, noxious substances, psychotropic agents, potent drugs and narcotics, biologically active materials (donor's blood, internal organs and other materials), genetically active materials (cultures of fungi, viruses and semen of animals and human beings and other materials), the endangered species of animals and plants, their parts and derivatives, as well as the procedure of their use;
- establishment of the procedure for the exportation of strategic raw materials, related to the fulfillment of international obligations of the Republic of Tajikistan;
- establishment of the procedure for importation and exportation of precious metals, precious stones and the articles, manufactured from them, scrap of precious metals and precious stones, wastes, derived from their processing, and chemical agents, containing precious metals, hazardous wastes, and their use;
- imposition of quantitative limitations on the exports and imports in accordance with the legislation of the Republic of Tajikistan;
- elaboration of the indicators of statistical reporting in the field of external trade activities, which shall be subject to compulsory application throughout the territory of the Republic of Tajikistan;
- conclusion of international treaties of the Republic of Tajikistan in the field of external trade activities;
- participation in the activities of international economic and scientific and technological organizations;
- establishment of trade representations of the Republic of Tajikistan abroad, as well as permanent missions of the Republic of Tajikistan at international economic and scientific and technological organizations;

- ensuring the implementation in the Republic of Tajikistan of the common state external trade policy and carrying out measures, aimed at its realization;
- annual elaboration of programmes for the development of external trade activities;
- fixing the rates of the customs tariff;
- ensuring the operation of the systems of safeguards and of the insurance of export credits;
- organization of trade exhibitions and fairs, symposia and conferences and the participation in these events;
- carrying out advertising campaigns and campaigns, aimed at promoting the export of goods (works, services);
- ensuring the creation of the system of external trade information and the information and advisory services, as well as the implementation of other forms of promoting and encouraging the external trade activities;
- exercising other powers, provided for by this Law and other laws of the Republic of Tajikistan.

The body, duly authorized by the Government of the Republic of Tajikistan (hereinafter referred to as “authorized body”), shall carry out the elaboration of the proposals in the field of the state external trade policy of the Republic of Tajikistan and the regulation of the external trade activities.

The powers of the National Bank of the Republic of Tajikistan shall be as follows:

- foreign exchange and credit regulation;
- formation and utilization of the official gold and foreign exchange resources of the Republic of Tajikistan;
- elaboration of the balance of payments.

Article 7. Subjects of the external trade activities

All the domestic participants of the external trade activities, with the exception of the cases, provided for by the legislation of the Republic of Tajikistan, shall have the right to carry out external trade activities. Foreign nationals shall carry out external trade activities in the Republic of Tajikistan, in accordance with the laws of the Republic of Tajikistan.

Article 8. Methods of the state regulation of external trade activities

The external trade activities shall be carried out by means of applying the methods of the customs and tariff and non-tariff regulation.

The application of the methods of the state regulation of the external economic activities, by means of the interference and imposition of different limitations by the state bodies, shall not be allowed.

The regulation of other types of external economic activities, including international and investment cooperation, production cooperation and foreign exchange and monetary and fiscal transactions, shall be carried out in accordance with the laws of the Republic of Tajikistan.

Article 9. Customs and tariff regulation of the external trade activities

The import and export customs duties shall be established with a view of regulating the export and import operations, including measures, aimed at protecting the domestic market of the Republic of Tajikistan and promoting the advanced structural adjustments in the economy of the state, in accordance with the laws of the Republic of Tajikistan and the international treaties of the Republic of Tajikistan.

Article 10. Quantitative limitations of export and import

The quantitative limitations of the export and import of goods (works, services) may be introduced, as a matter of exception, by the Government of the Republic of Tajikistan with the purpose of:

- ensuring the national security of the Republic of Tajikistan;
- fulfilling the international obligations of the Republic of Tajikistan, taking into account the situation at the domestic commodity market;
- protecting the domestic market of the Republic of Tajikistan in accordance with Article 12 of this Law.

Article 11. State monopoly for the export and import of specific items of goods

The laws of the Republic of Tajikistan shall establish the state monopoly for the export and import of specific items of goods.

Article 12. Protective measures in respect of the imports of goods

In the event, when any goods are imported in quantities and under conditions, which cause damage or result in causing a threat of such damage to the producers of the similar or directly competing goods in the territory of the Republic of Tajikistan, the Government of the Republic of Tajikistan, in accordance with the universally recognized standards of international law, shall be entitled to take protective measures, aimed at eliminating serious

damage or preventing a threat of causing such damage in the form of imposing quantitative limitations or introducing special customs duties in accordance with the law.

The report of the authorized body, prepared on the basis of the results of an investigation, carried out by the Government of the Republic of Tajikistan, shall constitute the grounds for imposing the protective measures.

The subject of the investigation shall include the identification of a substantial damage or a threat of causing such damage, and existence of causal relationship between the growth of import and the substantial damage caused or the threat of causing such damage.

The investigation shall be carried out within a period, not exceeding two months from the date of the decision.

The authorized body, on the basis of the decision of the Government of the Republic of Tajikistan, shall inform the bodies concerned of foreign states about the beginning of the investigation to find evidence of a substantial damage caused or a threat of causing such damage, as a result of the import of such goods, and about a proposed specific protective measure and an envisaged date of its application, as well as about the readiness to hold consultations on these issues.

The procedure of applying the protective measures shall be an open undertaking and it shall provide for the official publication of the decision of the Government of the Republic of Tajikistan on the introduction of a protective measure, with the indication of the total quantity and the value of a product (products), which are subject to limitation. The Government of the Republic of Tajikistan shall establish the period of the validity of a protective measure, its early cancellation or extension, as well as all the changes in the total quantity and the value of the products for the period of applying a given protective measure to them, with due regard to the international obligations of the Republic of Tajikistan.

For the purpose of this Article, a substantial damage means a general deterioration of the state of domestic production in a given area, which manifests itself in the decrease in production or profitability of the goods and services concerned, and a threat of causing a substantial damage means an obvious inevitability of such damage, confirmed by the actual evidence, in order to rule out the subjective considerations with regard to a possibility of causing a substantial damage.

Article 13. Bans and limitations, imposed on the export and import, proceeding from the national interests

In accordance with the laws of the Republic of Tajikistan and the international treaties of the Republic of Tajikistan, the bans and limitations may be imposed on the export and import of goods (works, services) and on the results of intellectual activity, proceeding from the national interests, including, *inter alia*:

- respect of public morale and legal order;
- protection of the life and health of people and protection of the animal world and plant kingdom and the environment, as a whole;

- preservation of cultural heritage of the people of the Republic of Tajikistan;
- protection of the cultural values from the illegal exportation, importation and the transfer of the rights of ownership of them;
- need of preventing the depletion of non-renewable natural resources, provided that the related measures are taken in parallel with the imposition of limitations of the domestic production and consumption concerned;
- ensuring the national security of the Republic of Tajikistan;
- protection of the external and internal financial situation and the maintenance of the balance of payments of the Republic of Tajikistan;
- fulfillment of the international obligations of the Republic of Tajikistan

Article 14. Technical, pharmacological, sanitary, veterinary, phytosanitary ecological standards and requirements in respect of imported goods

The goods, which are imported into the territory of Tajikistan, should comply with the technical, pharmacological, sanitary, veterinary, phytosanitary and ecological standards and requirements, established in the Republic of Tajikistan. The laws of the Republic of Tajikistan shall regulate the procedure of the certification of imported goods. The importation of ecologically hazardous products shall be subject to special control in accordance with the procedure, determined by the laws of the Republic of Tajikistan.

Article 15. Participation of the Republic of Tajikistan in international economic sanctions

The Government of the Republic of Tajikistan shall adopt a decision on imposition by the Republic of Tajikistan of international economic sanctions in respect of one state or a number of states.

The domestic participants in the external trade activities shall have the right of compensation of the losses, related to the participation of the Republic of Tajikistan in international economic sanctions, at the expense of the funds of the state budget, in accordance with the procedure, determined by the Government of the Republic of Tajikistan.

Article 16. Border trade

The border trade in goods may be carried out between the domestic participants in the external trade activities, who are residents of a border area in the territory of the Republic of Tajikistan, and foreign nationals, who are residents of a border area concerned, specified in the international treaties of the Republic of Tajikistan with the adjacent states.

Within the framework of the border trade, a preferential customs regime (reduced customs rates, simplified procedure of the customs control and clearance, etc.) shall be established.

The Government of the Republic of Tajikistan shall establish the procedure of carrying out the border trade, in accordance with the laws and the international treaties of the Republic of Tajikistan.

Article 17. Information support of the external trade activities

The system of external trade information, established by the Government of the Republic of Tajikistan, shall be put into operation, with a view to developing and increasing the efficiency of the external trade activities in the territory of the Republic of Tajikistan.

The authorized body should provide, free of charge, the necessary external trade information to the domestic or foreign participants of external trade activities, in accordance with the procedure, established by the Government of the Republic of Tajikistan.

Article 18. External trade statistics

The Government of the Republic of Tajikistan shall ensure the creation of a state system of statistical reporting, and the collection and development of internationally comparable statistical data on the basis of common methodology.

Article 19. Insurance of external trade activities

The insurance of external trade activities in the territory of the Republic of Tajikistan shall be carried out in accordance with the existing legislation of the Republic of Tajikistan. The state may participate in the export credit insurance schemes, with a view of promoting export activities. The insurance against commercial risks in the field of external trade activities shall be carried out on a voluntary basis, under contracts of insurance with domestic and foreign insurers.

Article 20. Associations of the subjects of external trade activities

The domestic participants in the external trade activities – legal persons – may unite, on a voluntary basis, in associations and other unions under sectoral, territorial and other principles, in accordance with the laws of the Republic of Tajikistan.

Article 21. Ensuring favourable conditions for having access to the external markets

The Government of the Republic of Tajikistan shall create the conditions for ensuring access for the domestic participants in the external economic activities to the markets of other states, by means of entering, *inter alia*, with this end in view, into bilateral and multilateral

negotiations, as well as taking part in the establishment and in the activities of the international organizations and intergovernmental commissions, designed to promote the trade and economic relations of the Republic of Tajikistan with foreign states.

Article 22. Representations of the Republic of Tajikistan for external trade matters in foreign states

The representations of the Republic of Tajikistan for external trade matters in foreign states shall operate on the basis of the international treaties of the Republic of Tajikistan. The trade representations of the Republic of Tajikistan shall be the authorized bodies of the Republic of Tajikistan, representing in the countries of their stay the interests of the Republic of Tajikistan in the field of external trade activities and ensuring the protection of these interests.

The refusal of providing the domestic participants in external economic activities with information and advisory services on the part of the trade representations of the Republic of Tajikistan shall not be allowed.

Article 23. Representations of foreign states for external trade matters in the Republic of Tajikistan

Representations of foreign states for external trade matters shall be established in the Republic of Tajikistan on the basis of the international treaties, concluded by the Republic of Tajikistan with the foreign states concerned.

Article 24. Retaliatory measures in the field of external trade activities, aimed at protecting the economic interests of the Republic of Tajikistan and the domestic participants in the external trade activities

In case of the adoption by a foreign state of measures, which violate the economic interests of the Republic of Tajikistan or the political interests of the Republic of Tajikistan, as well as in case of the non-fulfillment by this state of the obligations to the Republic of Tajikistan, undertaken by it under international treaties, the Government of the Republic of Tajikistan shall have the right to implement retaliatory measures in the field of the external trade activities, in accordance with the universally recognized standards of international law, and within the limits, which are felt to be necessary for ensuring the efficient protection of the economic interests of the Republic of Tajikistan and the domestic participants in the external trade activities.

Article 25. Responsibility for the violation of this Law

The persons, who are found guilty of violating the provisions of this Law, shall bear responsibility in accordance with the legislation of the Republic of Tajikistan.

**President
of the Republic of Tajikistan**

E. Rakhmonov

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