

LAW ON OF THE REPUBLIC OF TAJIKISTAN ON FOREIGN TRADE ACTIVITY

This Law shall regulate legal, organizational and economic fundamentals of foreign trade activity in the Republic of Tajikistan, basic principles of state regulation of foreign trade activity and rights and obligations of foreign trade operators, aiming to provide favorable conditions for foreign trade activity and its effective integration into the global economy.

CHAPTER 1. GENERAL PROVISIONS

Article 1. Scope of the Law

1. This Law shall apply to state regulation of foreign trade activity, as well as to the relations that are directly related to such activities.

2. The provisions of this Law relating to state regulation of foreign trade in services shall not apply to services provided in the exercise of governmental authority by public authorities of the Republic of Tajikistan.

Article 2. Definitions

When used in this Law, the following terms shall have the following meaning:

- Foreign Trade Activity - any activity pertaining to movement of goods, other tangible property, rights, or services between the Republic of Tajikistan and countries or territories outside the Republic of Tajikistan;

- Foreign trade operators – natural and legal persons, including foreign natural and legal persons involved in foreign trade activities in accordance with provisions of this Law;

- Person - any natural or legal person recognized by the legislation of the Republic of Tajikistan, including foreign natural or legal person;

- Goods - any tangible assets intended for exchange or sale, but not securities, commercial papers or cash;

- Export - transport or delivery of goods from the territory of the Republic of Tajikistan to a territory of another country or in accordance with the customs legislation of the Republic of Tajikistan;

- Import - transport or delivery of goods from any foreign country or territory into the territory of the Republic of Tajikistan in accordance with the customs legislation the Republic of Tajikistan;

- Transit - transportation of goods and means of transportation through the territory of Republic of Tajikistan, where such transportation is just a part of the complete itinerary that begins and ends outside of its territory;

- License (non-automatic) - a document granted by a state authority in the administrative procedure, upon an application of an interested person, which is a prior condition for importation or exportation;

- Automatic license - import or export license required for administrative or statistical purposes only, which shall be issued by the state authority in all cases, without exceptions;
- Commercial presence – any form of organization of entrepreneurial or other economic activity of foreign person in the territory of the Republic of Tajikistan permitted by the legislation of the Republic of Tajikistan or any such activity of natural and legal persons of the Republic of Tajikistan in a foreign country permitted by the applicable law of such foreign country, for the purpose of trade in goods or services, including establishment of a legal entity, branch or representative office and participation in founding (share) capital of the legal person;
- Restrictive measure - any prohibition, quantitative restriction, special charge (other than a tariff, internal tax, or charge for a service actually rendered), condition, license, approval or any other measure imposed by any state authority having a restrictive effect on foreign trade activity, but shall not include technical regulations;
- Quantitative restriction - the highest total value or maximum quantity of certain goods that may be exported or imported within the prescribed period of time, including the ban on export or import;
- Quota - a share in the total value or quantity of exports or imports allocated to a person or group of persons (exporters or importers);
- Anti-dumping duty - a special duty imposed on importation of goods in order to offset the effects of dumping;
- Dumping - importation of goods into the Republic of Tajikistan at less than their normal value, under conditions that cause or threaten to cause material injury to an industry established in Tajikistan or materially retards the establishment of an industry in Tajikistan;
- Normal value - the comparable price for the like product when destined for consumption in the exporting country, in the ordinary course of trade. If the goods are not sold in the market of the exporting country, the normal value shall be either the highest comparable price for the like product for export to any third country with market conditions comparable to those of Tajikistan or the cost of production of such goods in the country of origin increased by a reasonable amount for administrative, selling and general costs and for profits;
- Countervailing duty - a special duty imposed on importation of goods in order to offset the effects of any subsidy bestowed, directly or indirectly, in the country of origin or export, for production or export of such goods to the Republic of Tajikistan;
- Subsidy - any direct or indirect financial or other contribution by a government of the country of origin or export or its bodies, by which a benefit is conferred to a manufacturer or exporter, except where the financial contribution in question is a non-actionable subsidy in accordance with the relevant Agreement of the World Trade Organization;
- Domestic industry - domestic producers as a whole of the like products or those of them whose collective output of the products constitutes a major proportion of the total domestic production of those products;
- Like product - a product which is identical, i.e. alike in all respects to the product under consideration, or in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration;

- Domestic production - producers of the identical, like or directly competitive products whose collective output constitutes major proportion of the total domestic production of such products in the Republic of Tajikistan;
- Serious injury - a significant overall impairment in the position of a domestic industry.

Article 3. Legislation of the Republic of Tajikistan on Foreign Trade Activity

The legislation of the Republic of Tajikistan on foreign trade activity shall be based on the Constitution of the Republic of Tajikistan and shall comprise this Law, other normative legal acts of the Republic of Tajikistan and also international legal acts recognized by the Republic of Tajikistan.

Article 4. International legal acts

If an international legal act recognized by the Republic of Tajikistan establishes rules other than those provided for in this law, the rules of the international legal act shall prevail.

Article 5. Basic Principles of State Regulation of Foreign Trade Activity

The basic principles of regulation of foreign shall be the following:

- The unity of foreign trade policy as part of the foreign economic policy of the Republic of Tajikistan;
- State protection of rights and legitimate interests of foreign trade operators;
- Equality and prevention of nondiscrimination of foreign trade operators;
- Unity of the customs territory of the Republic of Tajikistan and the system of state regulation of foreign trade activities;
- Choice of measures of state regulation of foreign trade activity, which are no more burdensome for foreign trade operators than is necessary to ensure the effective achievement of the purposes for which the measures of state regulation of foreign trade activities are to be applied;
- Transparency in the development, adoption and application of measures of state regulation of foreign trade activity;
- Elimination of undue interference of the government or its agencies in the foreign trade activity and causing damage to foreign trade operators and the economy of the Republic of Tajikistan;
- Mutual responsibility of the state and foreign trade operators.

Article 6. National Treatment

1. Foreign persons conducting import or export of goods in accordance with the provisions of this Law shall be accorded treatment equal to that accorded to national persons.

2. Imported goods shall not be subject, directly or indirectly, to internal taxes or other internal charges of any kind in excess of those applied, directly or indirectly, to like domestic products; shall be accorded treatment no less favorable than that accorded to like products of domestic origin in respect of all laws, regulations and requirements

affecting their internal sale, offering for sale, purchase, transportation, distribution or use, and that no such taxes, internal charges, laws, regulations or requirements shall be applied so as to afford protection to domestic production.

3. Services and service providers originating from any foreign country or territory, with respect to all measures affecting the supply of services, shall receive treatment no less favorable than that accorded to domestic like services and service suppliers.

4. National treatment shall be implemented in accordance with the international legal acts recognized by Tajikistan, and otherwise as the Government may decide.

Article 7. Most Favored Nation Treatment

1. Most-favored nation treatment with respect to imported goods shall be the treatment no less favorable than that accorded to imports from or exports to any other foreign country or territory in accordance with international obligations, with respect to customs duties and charges of any kind imposed in connection with importation or exportation or on the international transfer of payments for imports or exports, and with respect to the manner of application of such duties and charges, and with respect to all rules and formalities in connection with importation and exportation, and with respect to internal taxes and charges of any kind, and with respect to all requirements affecting internal sale, offering for sale, purchase, transportation, distribution or use.

2. Most-favored nation treatment with respect to trade in services shall be treatment accorded to services and service providers from any foreign country that shall be no less favorable than that accorded to like services and service suppliers of any other country.

3. Most-favored nation treatment need not reflect advantages accorded to an adjacent country in order to facilitate frontier traffic, nor advantages granted pursuant to a bilateral or multilateral free trade area or customs union agreement, or pursuant to an interim agreement intended to advance the formation of a free trade area or a customs union.

4. Most-favored nation treatment shall be accorded to imported goods and services in accordance with international legal acts recognized by Tajikistan and otherwise as the Government may decide.

Article 8. Competences of the Government of the Republic of Tajikistan in Respect of Foreign Trade Activities

The competences of the Government of the Republic of Tajikistan in respect of foreign trade activities shall be the following:

- Determination of the authorized state body in the field of foreign trade;
 - Provision of common trade policy and measures for its implementation;
- adoption of appropriate decisions and ensure implementation thereof;
- Introduction of special measures related to foreign trade in goods;
 - Deciding on introduction of restrictive measures related to export and import of goods in accordance with international legal acts recognized by Tajikistan and this Law;
 - Establishment of the manner of issuing licenses for export and/or import of certain goods in accordance with this Law, as well as a list of specific goods in respect of which such regime applies;

- Definition of the system of monitoring of export and/or import of certain goods;
- Other competences in the area of foreign trade in accordance with the legislation of the Republic of Tajikistan.

Article 9. The Competences of the Authorized State Body in the Field of Foreign Trade Activities

The competences of the authorized state body in the field of foreign trade (hereinafter referred to as: the authorized state body) shall be the following:

- Monitoring the implementation of this Law;
- Presentation of the annual information to the Government of the Republic of Tajikistan on the results of such a monitoring;
- Development of proposals to improve legislation in the field of foreign trade activities;
- Development of proposals for the implementation of tariff and nontariff regulation of foreign trade;
- Development of proposals for the development of favorable conditions for foreign trade activities;
- Granting of licenses for export, import or transit of certain goods in a manner prescribed the legislation of the Republic of Tajikistan;
- Other competences in the area of foreign trade in accordance with the legislation of the Republic of Tajikistan.

Article 10. Guarantee of Rights and Interests of Foreign Trade Operators

1. The Republic of Tajikistan shall guarantee the rights and interests of foreign trade operators.

2. In case of adoption by the state authorities of the Republic of Tajikistan of any acts violating rights of foreign trade operators granted under this Law, any of their losses shall be compensated by such authorities in the court proceedings in accordance with the legislation of the Republic of Tajikistan and provisions of international legal acts recognized by the Republic of Tajikistan.

Article 11. Suspension and Termination of Foreign Trade Activity

Activity of foreign trade operator shall be suspended or terminated in accordance with the court decision only, under the circumstances provided for by the legislation of the Republic of Tajikistan. Decision on suspension or termination of foreign trade activity shall be appealable in the appropriate court proceedings.

Article 12. Confidential Information

1. Any information which is by its nature confidential, or which is provided on a confidential basis by parties to any procedure administered under this Law shall be treated as such.

2. Information which is by nature confidential shall include information whose disclosure would be of significant competitive advantage to a competitor or would have a significantly adverse effect upon a party supplying the information or upon a party from whom the information has been acquired.

3. The competent state authority or any other state authority administering the proceedings related to foreign trade activity or its officials shall not reveal any information received pursuant to this Law for which confidential treatment has been requested by its supplier, without specific permission from the supplier (holder) of such information.

Article 13. Transparency

1. Unless otherwise specifically provided for in this Law, no restrictive measure may take effect until at least 30 days have elapsed since its official publication.

2. Upon the written application of any interested person the competent state authority shall provide information regarding the implementation of this Law.

Article 14. Providing Favorable Environment for Access to Foreign Markets

The Government of the Republic of Tajikistan shall take measures to create favorable conditions for the access of domestic participants of foreign trade in the markets of foreign countries and shall for this purpose participate in bilateral and multilateral negotiations, conclude international agreements, and also participates in the creation and activities of international organizations and intergovernmental committees, designed to promote the development of foreign economic relations of the Republic of Tajikistan

CHAPTER 2. FOREIGN TRADE IN GOODS

Article 15. Right to Import and Export Goods

1. Subject to their status under relevant legislation and to the provisions of this Law and other legislation enacted pursuant to this Law, any person shall have the right to import or export goods, including but not limited to:

- Goods intended for sale, inward or outward processing, or any other commercial transaction, subject to legislation that regulates commercial activities;
- Goods intended for own use of legal entities, personal or family use; and
- Goods necessary to perform professional activities, including entrepreneurs, farmers and natural persons conducting professional activities or providing services.

2. Foreign persons who are not commercially present (who do not have representative or branch office or any other type of business or professional form of

organization) established in the Republic of Tajikistan shall have the right to import goods into the territory of the Republic of Tajikistan, directly and without the need to use the services of the customs broker (representative) or any other local natural or legal person at any stage of the import procedure. However, such importers shall not have the right to sell and distribute such imported goods in the Territory of the Republic of Tajikistan. Importers who are not commercially present in the territory of the Republic of Tajikistan shall have the right to deliver imported goods only to natural and legal persons having the right to distribute such goods in the territory of the Republic of Tajikistan.

Article 16. Quantitative Restrictions Imposed by the Government of the Republic of Tajikistan

1. Import and export shall not be subject to quantitative restrictions, except in cases referred to in Article in paragraph 2 of this Article.

2. The Government shall have the right to impose quantitative restrictions on exports only:

- In case of critical shortages of products essential to the Republic of Tajikistan, or for the relief of consequences of such shortages; or

- In order to protect exhaustible natural recourses, if export restrictions are applied simultaneously with restrictions on domestic production or consumption.

3. The Government may impose quantitative restrictions on imports as a safeguard measure pursuant Articles 43-49 of this Law.

Article 17. Non-discriminatory Implementation of Quantitative Restrictions

1. Where this Law allows introduction of quantitative restrictions of export and/or import, such restrictions shall be implemented irrespective of the origin of goods.

2. Where the introduction of quantitative restrictions involves allocation of quantities among interested foreign countries, the import from such countries in the preceding period shall be taken into consideration.

Article 18. Notice of Quantity

The competent state authority shall give public notice of the total quantity or value of goods permitted to be imported or exported pursuant this Law during a specified period of time, and of any change in such quantity or value.

Article 19. Allocation of Quotas

1. The competent state authority shall allocate any quotas on the basis of a public invitation to submit requests for allocation of quotas.

2. Public invitation has to be published at least 8 days before the allocation of quotas.

3. The competent state authority shall allocate quotas on the basis of objective and rational criteria and conditions, defined in the notice of public bid, which shall not have a protective purpose or competition distorting effect, including *inter alia* the following:

- Economically justified quantities of goods under quota;
 - Performance of the applicant in utilizing previously allocated quotas;
 - Allocation of quotas to persons previously not having been allocated quotas.
4. Decisions on quota allocation shall specify conditions to be fulfilled by the persons receiving quotas, including the time, not exceeding one year, during which the quota must be used.
5. The competent state authority may revoke a decision on quota allocation and allocate the quota to another person, if the person being allocated a quota does not use the quota in accordance with the public bid referred to in paragraph 1 of this Article.
6. The number of shipments during the period of validity of the quota shall not be limited.
7. The importer shall be free to choose the supplying country and the exporter shall be free to choose the destination country.
8. A person who has been allocated a quota may not transfer such quota to another person, nor allow its use by other Person.

Article 20. Prohibited Imports

1. Importation of goods into the Republic of Tajikistan or transit through its territory shall be prohibited if trade in such goods is prohibited in the Republic of Tajikistan under the legislation of the Republic of Tajikistan.
2. The Government of the Republic of Tajikistan may prohibit imports, temporary imports or transit of goods if circulation of such goods is banned under the legislation of the country of export, of origin, or of destination of such goods.

Article 21. Fees for Services related to Import and Export of Goods

1. Any fees established in accordance with the legislation of the Republic of Tajikistan that are collected in connection with foreign trade activity shall be limited in amount to the approximate cost of services rendered and shall not represent an indirect protection to domestic products or a means of obtaining revenue for fiscal purposes.
2. This Article shall apply to fees collected in connection with import and export of goods, including those relating to the following:
- Quantitative restrictions;
 - Licensing;
 - Foreign exchange control;
 - Statistics;
 - Assessment of conformity with mandatory requirements;
 - Analysis and inspection.

CHAPTER 3. LICENSING SYSTEM

Article 22. License

The Government may, in accordance with the provisions of this Law, introduce licenses for the import, export, or transit of certain goods, which shall be based on objective and rational criteria, conditions and procedures.

Article 21. Criteria for Import, Export and Transit Licenses

The Government shall have the right to introduce import, export or transit licenses only when it is necessary to:

- Protect human, animal or plant life or health;
- Protect national treasures of artistic, cultural, historic or archaeological value;
- Protect national security;
- Protect public morals;
- Protect environment or exhaustible natural resources;
- Protect endangered species of plants and animals;
- Protect intellectual property rights; or
- Enforce any special rules related to gold and silver.

Article 24. Authority to Grant Licenses

1. The competent state authority shall be the sole state authority competent to decide upon applications for import, transit or export licenses.

2. An application for issuance of a license shall not be refused for the minor documentation errors that do not alter the basic data contained therein.

3. A decision to refuse issuance of a license must be provided to the applicant in writing with the rationale for such a decision.

4. The procedure for issuing, withdrawal and cancelation of import, export and transit license shall be prescribed in accordance with the legislation of the Republic of Tajikistan.

Article 25. Conditions Fulfilled by the Licensee

1. Licenses issued shall specify conditions to be fulfilled by the licensee and the rationale.

2. Detailed conditions for issuance of import, export or transit of certain goods shall be specified by the Government.

3. Licenses may be issued for one or more types of goods.

4. Exceptionally to the provision of paragraph 3 of this Article:

1) In the case of agricultural goods and other goods that may carry a pest or disease that can cause significant harm to the health or life of plants or animals in the Republic of Tajikistan, the license shall be issued for a single type of goods;

2) In the case of artistic, cultural, historical and archeological artifacts the license shall be issued for each particular article or a single license for more articles if they constitute one consignment.

Article 26. Conditions for the Cancellation of a License

1. Once issued, the competent authority may cancel the license only if:

- After the license has been issued a decision was made in accordance with the provisions of this Law to prohibit import or export of goods subject to such a license;
- A license holder violates the conditions of a license;
- A license was issued in violation of this Law or other relevant legislation; or
- A decision to issue the license was based on incorrect information or it has been obtained by deceit.

2. In cases referred to in paragraph 1, item 1 of this Article, the license shall not be cancelled for quantities of goods that have been paid for, but not delivered, except in the case of urgent circumstances.

3. Urgent circumstances include *inter alia* an outbreak of an animal or plant disease or pest in the Republic of Tajikistan, in the case of export of susceptible agricultural goods, or, in the case of import, in the case of outbreak in the country from which such goods are to be imported, that could cause an unacceptable level of health risk to the human, animal or plant population.

Article 27. Time Limits to Decide on License Applications

The period for processing applications for import, transit, or export licenses shall not exceed 10 working days as of the day of application.

Article 28. Duration of a License

1. License shall be valid for the period specified in the license, however not exceeding the period of one year. The number of shipments during such period shall not be limited.

2. The competent state authority shall maintain the register of issued licenses.

3. The content and the manner of maintaining the register of issued licenses shall be provided for by the appropriate legislation of the Republic of Tajikistan.

Article 29. Automatic License

1. Automatic license shall be the license for import or export of goods obtained automatically. Automatic license shall be issued in all the cases and the applicable procedures shall not be applied as to restrict trade.

2. An automatic license shall be issued immediately upon receipt of an application to the extent administratively feasible, but not later than 10 working days upon submitting the complete application. Automatic license may also be issued in a form of a note on the copy of the application submitted, which shall contain a specific filing number.

3. An automatic license shall be issued to each and every applicant who submits the request at any time prior to placing the goods in the appropriate customs procedure accompanied with the proof of payment of a fee for issuing the license, if such fee is payable under the provisions in force.

4. An automatic license shall be valid for a period of one year, automatically extendable upon the request of the license holder. Number of validity extensions shall not be limited.

CHAPTER 4. SPECIAL REQUIREMENTS

Article 30. Certifications

1. Where the legislation of the Republic of Tajikistan or international legal acts recognized by Tajikistan require that goods being exported or imported should be accompanied by certain certificates or certified documents whose issue or certification is not within the purview of the competent state authority, such certificates and documents shall be issued or certified by the authority designated by the Government.

2. The manner of issuance of certificates and certification of documents referred to in paragraph 1 of this Article shall be regulated by the applicable legislation of the Republic of Tajikistan.

Article 31. Veterinary, Sanitary and Phytosanitary Requirements

1. Import, transit and export of animals, plants, animal and plant products, and other goods that may carry or transmit pests and contagious disease that may endanger the life and health of humans, animals or plants, may be prohibited from specific countries or territories thereof based on international recommendations and guidelines, available scientific evidence and the animal and plant health status of such countries or territories relative to that of the Republic of Tajikistan.

2. Import, transit and export of goods shall be subject to relevant veterinary, sanitary and phytosanitary requirements prescribed for particular type of goods, in accordance with the applicable law.

3. Import of environmentally dangerous goods shall be subject to special control in a manner prescribed by the applicable legislation of the Republic of Tajikistan.

Article 32. Technical Regulations

1. Conformity with technical regulations applicable in the Republic of Tajikistan may be prescribed as a condition for import of goods.

2. Technical regulations, within the meaning of paragraph 1 of this Article, establish mandatory criteria for placing goods into circulation for the purpose of protection of national security, health and life of humans, plants and animals, and environmental protection. Technical regulations shall apply irrespective of the origin of goods and may encompass characteristics of goods or methods of processing and production thereof, including applicable mandatory administrative provisions, technical specifications, terminology, symbols, packaging, marking or marking requirements applicable to goods, process or method of production of goods.

3. Conformity with standards cannot be prescribed as a mandatory condition for import of goods, except where the standard is an integral part of the technical regulation referred to in paragraph 1 of this Article.

CHAPTER 5. FOREIGN TRADE IN SERVICES

Article 33. Foreign Trade in services

1. For the purposes of this Law, foreign trade in services shall mean the supply of services:

1) From the territory of the Republic of Tajikistan into the territory of any other country, and from the territory of any other country into the territory of the Republic of Tajikistan;

2) By a domestic person to a foreign person on the territory of the Republic of Tajikistan;

3) By a domestic person through a commercial presence in the territory of any other country, or by a foreign person through commercial presence in the territory of the Republic of Tajikistan; and

4) By a domestic natural person in the territory of any other country, and by a foreign natural person in the territory of the Republic of Tajikistan.

2. Subject to their status under relevant legislation of the Republic of Tajikistan and to the provisions of this Law and other legal acts, any person shall have the right to provide services in accordance with paragraph 1 of this Article.

CHAPTER 6. SPECIAL TRADE MEASURES

§1. GENERAL PROVISIONS

Article 34. Measures

1. In accordance with the provisions of Articles 35-51 of this Law, the Government of the Republic of Tajikistan shall have the right to restrict imports or exports of goods through the introduction of the following special trade measures:

- Anti-dumping duties,
- Countervailing duties,
- Safeguard measures, and
- Measures to safeguard balance of payments.

2. The Government of the Republic of Tajikistan shall establish the procedure and terms of the implementation of the special trade measures referred to in paragraph 1 of this Article, taking into consideration provisions of relevant WTO agreements.

§2. ANTI-DUMPING AND COUNTERVAILING DUTIES

Article 35. Criteria for Application

1. The Government of the Republic of Tajikistan may levy an anti-dumping or countervailing duty only where it has been established on the basis of investigations conducted pursuant to the provisions of this Law that:

- There has been a significant increase in dumped or subsidized imports compared to the level of domestic production or consumption;

- There has been significant price undercutting by the dumped or subsidized imports compared with the price of the like domestic product or the prices of such imported products have depressed to a significant degree the price of the like product or have prevented that price from increasing as it would otherwise have done;

- As a result, material injury is caused to the domestic industry or there is a threat of such injury to the domestic industry.

2. The anti-dumping duty shall not exceed the lesser of the amount necessary to remove the injury to the domestic industry or the amount of the full margin of dumping, i.e. the difference between the Normal Value of goods and the price for such goods when intended for exports to Tajikistan.

3. The countervailing duty shall not exceed the lesser of the amount necessary to remove the injury to the domestic industry or of the full amount of subsidy.

Article 36. Investigating Procedure

1. The competent state authority shall conduct an investigation on the basis of a written application made by, or on behalf of the domestic industry.

2. The application shall be considered to have been made by or on behalf of the domestic industry if it is submitted by:

1) domestic producers whose total output accounts for more than 25% of the total domestic production of the like product;

2) total collective output of producers referred to in item 1 of this paragraph constitutes more than 50 per cent of the total production of the like product produced by that portion of the domestic producers making the application, expressing either support for or opposition to the application.

3. Producers related to importers or exporters of the subsidized or dumped products or producers who import such products themselves, must not be treated as a part of a domestic industry.

4. The competent authority shall examine the application referred to in paragraph 1 of this Article and determine whether an investigation should be initiated.

5. Notwithstanding provisions of paragraph 1 of this Article if there is sufficient evidence on dumping or subsidy, material injury and a causal link, the competent authority may initiate an investigation *ex officio*.

6. The competent state authority shall not provide information on any request submitted to initiate and investigation. The competent state authority shall notify the decision to initiate an investigation and any subsequent phases in the procedure.

7. The investigation shall be concluded within one year after its initiation; however it shall not under any circumstances exceed 18 months.

Article 37. Application to Initiate an Investigation

The application for initiation of an investigation shall be accompanied by all necessary evidence, including *inter alia* the following:

- Description of the allegedly dumped product;

- Information about the applicant and that regarding the applicants' share in total volume of the domestic production of the product referred to in item 1 of this Article;

- The names of the exporting countries, each exporter or foreign producer known to applicant, and a list of the importers of the allegedly dumped;

- Information on the existence of dumping, and/or subsidization, injury to domestic production caused by the dumped or subsidized imports and causal link between dumped or subsidized imports and the injury.

Article 38. Interested Parties

1. Interested parties, including industrial users of a product subject to investigation and representative consumer organizations, may participate in the investigation and defend their interests, and shall have the right to:

- Meet those parties with adverse interests;
- Present their views orally, which shall be taken into account by the competent state authority if subsequently submitted in writing and made available to other parties;
- Have at their disposal any relevant non-confidential information.

2. The competent state authority shall, before a final determination on dumping and/or subsidizing is made, inform all interested parties of the essential facts under consideration, which form the basis for initiation of investigation procedure and invite their opinions within the period of 30 days. Subsequent to expiration of such a time the competent state authority shall make a decision.

Article 39. Decision

Where the existence of dumping or subsidizing was confirmed the Government of the republic of Tajikistan shall decide whether anti-dumping or countervailing duties should be levied.

Article 40. Provisional Measures

1. The Government of the republic of Tajikistan shall have the right to apply provisional measures after the expiry of 60 days from the day of initiation of the investigation if it was determined that:

- Existence of both the dumping and/or subsidizing and of injury to the domestic industry are probable;
- Delay would cause damage which it would be difficult to repair; and
- Interested parties have been given an opportunity to submit data necessary for protection of their interests.

2. Any decision on application of provisional measures shall be officially published.

3. The application of provisional measures shall not exceed six months in the case of antidumping duties, and four months in the case of countervailing duties.

Article 41. Collection and Reimbursement of Duty

1. If the definitive amount of anti-dumping or countervailing duty is higher than the provisional duty paid or the amount estimated for the purpose of the security, the difference shall be collected.

2. If upon completion of investigation proceedings dumping or subsidizing is not found to exist or the definitive duty is lower than the provisional duty paid or the amount of the security, the difference shall be reimbursed or the duty recalculated as the case may be.

Article 42. Duration

1. Anti-dumping or countervailing duty shall remain in force for as long as necessary to remedy an injury, but not exceeding five years from its imposition or from the last review if it included dumping and injury.

2. During the period referred to in paragraph 1 of this Article, the competent state authority shall review the need for the continued imposition of the duty in accordance with the provisions on investigation procedure of this Law. The duty may remain in force in the course of such review.

3. The Government of the republic of Tajikistan shall abolish the antidumping or countervailing duty where the review referred to in paragraph 2 of this Article indicates that because of the termination of antidumping or countervailing duty, dumping, subsidy or the causal injury to the domestic industry would be unlikely to continue or recur, as the case may be.

§3. SAFEGUARD MEASURES

Article 43. Criteria for Application of Safeguards

1. The Government shall have the right to apply safeguard measures in order to remedy the injury and distortions to domestic industry caused by increased imports if under the provisions of Articles 44-49 it has been determined that a particular product within a period of time is being imported in such increased quantities, absolute or relative to domestic production, and under such conditions, as to causes or threaten to cause serious injury to the domestic industry that produces the like or directly competitive product.

2. Safeguard measures shall be applied to importation of all products referred to in paragraph 1 of this Article irrespective of their country of origin or the country of exportation.

Article 44. Decision on Implementation of Safeguard Measures

1. A decision to apply safeguard measures shall be based on the results of the investigation initiated and conducted *ex officio* by the competent authority.

2. The decision on initiation of an investigation shall be published in an established manner and brought to attention of all interested parties.

3. The manner of investigation shall be established by the Government of Tajikistan.

Article 45. Form of Safeguard Measures

1. Safeguard measures may take the form of quantitative restriction or tariff increase. Safeguard measures shall apply only to the extent necessary to prevent or remedy serious injury and to facilitate adjustment. Measures chosen shall be those most suitable for the achievement of these objectives.

2. If a quantitative restriction is used as a safeguard measure, it shall not reduce the quantity of imports below the average level of imports in three representative years preceding such imports for which statistics are available, unless clear justification is given that a different level is necessary to prevent or remedy serious injury.

Article 46. Duration of Safeguard Measures

1. Safeguard measure shall remain in force for as long as necessary to remedy an injury, but not exceeding four years from its imposition.

2. Exceptionally to the provisions of paragraph 1 of this Article the period of application may be extended provided that the Government has determined, in conformity with the procedures set out in this Chapter, that the safeguard measure continues to be necessary and that there is evidence that the industry is adjusting.

3. Safeguard measure that was extended in accordance with provisions of paragraph 2 of this Article shall not be more restrictive than it was before the extension.

4. The total period of application of a safeguard measure shall not exceed eight years.

Article 47. Liberalization

1. Where the duration of a safeguard measure is more than one year, the Government shall progressively liberalize it during the period of application.

2. Where the duration of a safeguard measure exceeds three years, the Government shall review the need for application of such measure not later than the mid-term of the period of application of the measure and, if appropriate, withdraw it or increase the pace of liberalization..

Article 48. Application of the Safeguard Measure

1. A safeguard measure shall not be applied to the importation of a product that has been previously subject to such measure, before the expiry of a period of time equal to the period of application of such previously applied measure. In any event, such period may not be shorter than two years.

2. Exceptionally to the provisions of the paragraph 1 of this Article, the Government may re-apply safeguard measure against the importation of a product, with duration of 180 days or less, after one year has elapsed, if such safeguard measure has not been applied to the same product more than twice in the preceding five-year period.

Article 49. Provisional Safeguard Measures

1. The Government may introduce a provisional safeguard measure, for a period not exceeding 200 days, in the form of tariff increase, if the evidence clearly shows that:

- Increased imports have caused or are threatening to cause serious injury to the domestic industry, and

- Delay in introducing safeguard measures would cause injury difficult to repair.

2. Any amounts collected pursuant to paragraph 1 of this Article shall be promptly refunded to the importers concerned if the subsequent investigation determines that increased imports have not caused or threatened to cause serious injury to domestic industry.

3. The duration of any provisional safeguard measure shall be calculated in the total duration of the measures referred to in Article 46 of this Law.

§4. MEASURES TO SAFEGUARD BALANCE OF PAYMENT

Article 50. Conditions and Procedure

1. In order to safeguard the balance of payments, the Government of the Republic of Tajikistan shall have the right to introduce quantitative restrictions on imports of goods, based on the information supplied by the National Bank of Tajikistan, may, if it is necessary to:

- Forestall an imminent threat of, or stop a serious decline in monetary reserves;
- Achieve an increase of very low monetary reserves.

2. Measures to safeguard the balance of payments shall not be harmful to commercial and economic interests of countries or territories regarding to which Tajikistan has international obligations in that area and shall not be prescribed or implemented for the purpose of protecting domestic producers.

Article 51. Application of Measures to Safeguard Balance of Payments

1. Measures to safeguard the balance of payments shall stay in effect to the extent necessary, and shall gradually be relaxed with the improvement of the balance of payments.

2. Measures to safeguard the balance of payments shall not apply to imports of goods that are imported for the purpose of protection of intellectual property rights.

CHAPTER 7. FREE TRADE AND CROSS BORDER ZONES

Article 50. Free trade area

1. Free trade area shall comprise customs territory where, in accordance with the international agreement with one or more countries or groups of countries, customs duties and other measures to restrict trade in products originating from these customs territories in respect of practically all foreign trade in such goods within such customs territory have been abolished. In this case the subjects of a free trade area do not exercise any significant coordination in the application of customs duties and other measures to regulate foreign trade with third countries.

2. The manner of exercising the trade in a free trade area and related areas where special regime of foreign trade activity applies, shall be determined by the Government of

the Republic of Tajikistan.

Article 53. Cross-border Trade

1. Cross-border trade shall be carried out, as a rule, on the basis of an international agreement of the Republic of Tajikistan with the neighboring country or a group of neighboring countries providing for special favorable regime applicable to foreign trade in goods and services carried out solely to meet local needs for goods and services produced within the respective border areas and intended for use by natural persons who have permanent residence in such territories and legal persons located in such territories. Such a favorable regime shall not extend to other countries or groups of countries with which the Republic of Tajikistan has concluded international agreements providing for the most favored nation treatment.

2. Cross-border trade can take place between the persons having permanent residence (domicile) in the border territory of the Republic of Tajikistan and foreign persons having permanent residence (domicile) in the respective border areas of the neighboring foreign country, as defined by international treaties of the Republic of Tajikistan to, only to meet local needs for goods and services produced within their respective border areas and intended for consumption within their respective border areas.

3. The manner of carrying out cross-border trade and the relevant border territories, where the special favorable regime is to be applied shall be determined by the Government in accordance with the international agreements of the Republic of Tajikistan with specific countries.

CHAPTER 8. FINAL PROVISIONS

Article 54. Dispute Resolution

1. Participants in foreign trade activity may agree on the applicable law to their transactions and the choice of competent court or arbitral tribunal.

2. Where the applicable law or the forum for dispute resolution was not agreed by the parties, it shall be determined in accordance with the international legal acts recognized by Tajikistan.

Article 55. Responsibility for Violation of this Law

For any violations of this Law and any other provisions of legal acts regulating foreign trade activity, natural and legal persons shall be held responsible in accordance with the legislation of the Republic of Tajikistan.

Article 58. Repeal of the Law of the Republic Of Tajikistan “On State Regulation of the Foreign Trade Activity”

On the day this Law comes into effect the Law of the Republic of Tajikistan on Foreign Trade Activity of 3 September 1999 (Ahbori Majlisi Oli Respubliki Tajikistan, 1999, No.9, p.226) shall cease to be effective.

Article 59. Coming into Force

This Law shall come into force after its official publication.

President of the
Republic of Tajikistan

Emomali Rahmon