

**Law of the Republic of Kazakhstan
as of December 28, 1998, N 337-1 ZRK**

On Safeguard Measures to Protect Domestic Market

This Law shall govern relationships that emerge in the process of applying safeguard

Similar or directly competing goods mean the goods that classify under the same code of the “Goods Nomenclature for Foreign Economic Activities of the Commonwealth of Independent States” and that are totally identical to the other goods or comparable thereto as to its functional purpose, use, qualitative and technical parameters and other main features, so that the buyer replaces or is prepared to replace such goods with other goods in the process of consumption;

Investigation means the procedure for examination of documents and other evidences relating to the import of any goods to the customs territory of the Republic of Kazakhstan in such amounts and on such terms that materially injure or are likely to materially injure domestic producers of similar or directly competing goods;

Material injury means a considerable deterioration of the situation in the domestic production of similar or directly competing goods in the Republic of Kazakhstan due to increased supply thereof to the customs territory of the Republic of Kazakhstan, which, in particular, manifests in lower production of such goods, reduced sales of domestic goods in the domestic market of Kazakhstan, reduced profitability of production of such goods, negative impact on the employment, wage levels and other indicators;

Threat of material injury means an inevitable considerable deterioration of the domestic production status in the future;

Authorized body means a government authority of the Republic of Kazakhstan that holds investigations to determine injury and the necessity of applying safeguard measures.

Article 2. Legislation of the Republic of Kazakhstan concerning measures to protect domestic market under importation of goods

Legislation of the Republic of Kazakhstan concerning measures to protect domestic market under importation of goods shall consist of this Law and other legal acts of general application.

In the event that an international treaty or agreement ratified by the Republic of Kazakhstan prescribes rules other than those set out herein, the rules of the international treaty or agreement shall apply.

Article 3. Objectives of this Law

The purpose of this Law shall be to protect interests of domestic producers of goods and rectify material injury or a threat thereof under increased importation of goods to the customs territory of the Republic of Kazakhstan.

Safeguard measures shall apply only if there is a material injury or a threat thereof exists to domestic producers due to increased supplies of goods to the customs territory of the Republic of Kazakhstan.

Safeguards measures shall apply provided that an investigation has been conducted in compliance with the rules and procedures set out herein.

Safeguards measures shall apply to imported goods on a non-discriminatory basis irrespective of the country of origin of goods.

Article 4. Scope of application of this Law

This Law shall govern relationships that arise between the authorized body and all involved parties, as well as between the involved parties, due to increased supplies to the customs territory of the Republic of Kazakhstan of any goods in such amounts (absolute or compared

to domestic production) and on such terms as to cause a material injury or to threaten to cause a material injury to domestic producers of similar or directly competing goods.

2.The applicant may revoke his application prior to the beginning of an investigation. In such case, the application shall be deemed to have not been filed.

3.The applicant shall be responsible for the accuracy of information provided on the application.

Article 9. Review of application

The authorized body must consider the accuracy and sufficiency of data in the application and prepare a decision either to conduct or to reject to begin an investigation within thirty calendar days following the lodgment of the application.

Should the authorized body regard the information insufficient, it must advise the applicant thereon within thirty calendar days and give the applicant an opportunity to make additions. If the applicant makes additions to the application, the application review period shall count as of the date when the additions are received.

The authorized body shall make a decision to reject to begin an investigation, in the event that there are no sufficient evidences of a cause of material injury or a threat thereof to investigation;

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regarding possible consequences of the said measures on the competition in domestic market of the Republic of Kazakhstan.

Article 11. Investigation Timeline

The investigation preceding the application of safeguard measures must be completed within nine months.

Article 12. Information Request

After the commencement of an investigation, where necessary, the authorized body may send information requests to the involved parties with the fixed period for response.

Each involved party shall have a right to provide any other evidences that it deems necessary within the period fixed by the authorized body in the notice.

Article 13. Confidential information

Confidential information provided to the authorized body in the course of investigation must not be disclosed without a written consent of the involved parties.

The involved parties that provide confidential information must provide written clarifications thereon.

Such clarifications must be detailed enough to understand the nature of the information or explain the reasons for which submission of more detailed disclosed information is impossible.

The authorized body shall be liable for disclosure of confidential information as prescribed by the legislation of the Republic of Kazakhstan.

Article 14. Investigative Proceedings

In each investigation, the authorized body shall duly keep the case-file. The case-file must contain all documents relating to the proceeding, the procedure for and period of storage of which are defined according to the legislation.

The case materials that are not confidential shall be provided to the involved parties for review in the course of investigation and re-consideration of the case at their request.

The authorized body shall publish a report on each investigation in the official press media. Such a report must include a detailed analysis of the case with the rationale of the adopted Resolution of the Government of the Republic of Kazakhstan.

Article 15. Hearings

The involved parties shall have a right to appeal to the authorized body for the conduct of hearings to familiarize themselves with the case materials and arguments of the other party.

Such hearings shall be chaired by an official of the authorized body and documented in the protocol.

Article 16. Determination of Material Injury

1.A material injury shall be determined based on the obtained information confirmed by objective facts, provided that a correlation between increased volume of importation of goods and a material injury or a threat thereof is proved.

2.To detect a cause and effect correlation between increased import of goods and a material injury to domestic producers, the authorized body must consider all objective factors that affect the position in a given sector, in particular:

1)the pace and quantity of growth of the goods' import in absolute and comparative numbers;

2)the share of increased import in the domestic market;

3)changes in the level of sales;

4)the production of the goods by domestic producers;

5)the productivity, facility workloads, profit and loss amounts, employment.

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Article 20. Investigation Completion

The investigation conducted by the authorized body shall be completed with preparation of the final determination to be forwarded to the Government of the Republic of Kazakhstan:

To terminate the investigation due to lack of sufficient evidences of material injury or a threat thereof to domestic producers as a result of import of goods that have been under investigation;

To ascertain the fact of material injury or a threat thereof to domestic industry as a result of increased import of goods and propose that Government of the Republic of Kazakhstan applies safeguards.

Article 21. Safeguards

The decision to apply safeguards shall be made upon suggestion and based on the findings of the authorized body. The said decision shall be made effective as of the publishing date thereof in the official press media.

Safeguard measures shall apply in the form of a limitation on imported quantities of the goods, setting quotas and/or introducing safeguard duties.

Article 22. Determination of Safeguards Amount

Safeguard measures must apply in the amount sufficient to rectify negative effects of import of the goods that have been under investigation.

The amount of safeguards may not increase within the entire term of the application thereof. The amount thereof may be reduced by the resolution of the Government of the Republic of Kazakhstan upon a request of the authorized body provided that duration of a safeguard lasts over one year.

If the duration of a safeguard exceeds three years, a second investigation must be conducted at most one and a half years after the introduction thereof. As a result of such second investigation, the safeguards may be either extended or canceled.

If the duration of safeguards is extended as a result of a second investigation, the terms of application of such measures may not be more restrictive than those for the original term of the safeguards.

Article 23. Safeguard Application

Under the resolution of the Government of the Republic of Kazakhstan concerning the introduction of safeguard duties, the customs authorities shall charge the said duties on all imported goods that have been under investigation. Such safeguard duties shall be charged irrespective of customs duties, taxes and other fees.

If safeguard measures are applied in the form of a quota, the import quota rate must not reduce imported volume lower than the average level for the preceding period, unless it is proved that a different decision should be made to preven

The Government of the Republic of Kazakhstan shall establish import quotas for importing countries after discussions with them taking into account their interests in importing such goods.

Such quotas may be distributed among countries subject to agreement with major importing countries that are interested in exporting such goods to Kazakhstan. Should such agreement be impossible to reach, quotas may be fixed pro rata to shares of the previous imports among importing countries as opposed to the total quantity or import price of the goods.

If necessary, the Government of the Republic of Kazakhstan may distribute import quotas among individual importing countries given absolute and comparative growth of imports from individual foreign states (commonwealth of foreign states).

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