

DRAFT LAW ON FOREIGN TRADE
May 2002, Skopje

I. GENERAL PROVISIONS

Article 1

This Law shall govern foreign trade operations, in particular, terms of conduct of foreign trade, carrying out commercial activities 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 their normal value.
- antidumping 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 valuefor the purposes of dumpingshall 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

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 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 in types of import and export and determines for which goods imports and exports 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 with 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.

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

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

The duration of any such provisional measure shall be counted as a part of the total duration of the measures taken under 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 present measure.

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 its effects and estimate if there are conditions for liberalization or withdrawal not later than the mid-term of the measure.

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

Article 13

In case of introduction of measures under Article 9 of this Law, the Government may agree to grant 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 other countries.

Article 14

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

Quantitative Restrictions and Restrictions in Value (Quotas)

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 (quotas) 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 (quotas), when the increased export of certain goods may cause or threaten 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 value restrictions on goods, along with the measures pertaining to 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 last three years.

If distribution of the goods referred to in paragraph 1 of this Article is made among several countries, the Government may arrange the manner of distribution of these goods with the WTO member countries that are particularly interested in exporting the said goods in the Republic of Macedonia, 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 to the countries importers of the total import of certain goods in the Republic of Macedonia over a certain time period, taking into account all other important circumstances that influence or may influence the imports of such goods.

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

- the import from a certain country member of the WTO increases unproportionally in relation to the total increase of the import of the particular goods in that period;

- there are justified reasons for deviation from the distribution of goods according to paragraph 2 of this Article, and
- the conditions for such deviations are equal towards all member countries of the WTO – suppliers of such goods.

The duration of the measures referred to in Article 9 of this Law may not be longer than the period set forth in Article 10 of this Law, notwithstanding a possible threat of injury to the domestic production.

Article 18

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

The distribution of goods under Articles 16 and 17 of this Law shall be administered by the Ministry of Economy, by issuing licences.

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

The total quantity of goods per volume and/or value that needs to be distributed shall be published 21 days prior to the actual distribution.

If the distribution of the goods from paragraph 1 is carried out according to the country of origin, quotas shall be published 21 days prior to the actual distribution.

Public tenders shall be published in daily newspapers. A public tender shall contain the total quantity of goods that need to be distributed per volume and/or value, the initial and 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 time period.

Distribution of quotas shall be carried out on equal and regular basis.

During distribution of quotas, past shares in imports and interests of applicants shall be taken into consideration.

Applicants shall be informed about the performed distribution.

Applicants who have not been issued licenses shall be informed of the reasons in written and shall have the right to file a complaint with the relevant Government committee, unless otherwise arranged by international agreements ratified by the Republic of Macedonia.

Antidumping 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 (dumped), and in an investigating procedure carried out by the Ministry of Economy it has been determined that this product causes or threatens to cause serious injury to the domestic production, the Government of the Republic of Macedonia may impose an antidumping duty on the import of that product.

A product is to be considered as being introduced into the commerce of the Republic of Macedonia at less than its normal value (dumped), if the export price of the product is less than the comparable price of the same product in the ordinary course of trade for consumption purposes in the exporting country.

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

The antidumping duty shall remain in force as long as it is necessary to withhold the dumping which caused injury to the domestic industry. The Ministry of Economy, after a certain period of time, shall review the need for antidumping duty, upon its own initiative, or upon request by an interested party, if such party justifies the request for review of the antidumping duty.

The Government of the Republic of Macedonia shall prescribe the procedure and manner of determining an antidumping duty.

Measures against subsidized imports

Article 21

The Government may, upon a proposal by the Ministry of Economy, impose a countervailing duty on a product which is imported 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 relevant international agreement,
- the subsidized import causes or threatens material injury to a domestic industry or may hamper the economic development.

Under this Article, the term countervailing duty shall be understood to mean a special duty levied for the purpose of offsetting any subsidy bestowed directly or indirectly upon the

received a written request as provided in paragraph 1 of this Article by or on behalf of a domestic industry, 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 all requirements of the imposition of countervailing duty have been fulfilled and whether the amount of this duty shall be the full amount of the subsidy or less. The duty may be less if such lesser duty would be adequate to remove the injury to the domestic industry.

The countervailing duty shall remain in force only as long as and to the extent necessary to counter-act subsidization that

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 coming into effect of this Law, the Law on Foreign Trade (Official Gazette of the Republic of Macedonia no.41/93, 78/93, 59/96, 15/97, 13/98, 13/99, 50/99, 82/99, 4/2002 and 2/2002) shall cease to be valid, exclusive of Articles 11a, 57a, 57b, 57g, 79, 84 item 11a 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.