

Draft

LAW ON REGULATION OF FOREIGN TRADE ACTIVITY

I.GENERAL PROVISIONS

This Law shall determine fundamentals of foreign trade activity in the Republic of Tajikistan, basic principles of state regulation of foreign trade activity, fundamental rights and obligations of natural and legal persons and state authorities in the area of foreign trade activity.

Article 1. Legislation of the Republic of Tajikistan on Foreign Trade Activity

3) *Most-Favored-Nation Treatment*

- With respect to goods, shall mean the treatment, with respect to imports from or exports to a 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, is no less favorable than similar treatment accorded to like product when imported from or exported to any other foreign country or territory;

- With respect to services, in sectors where the Republic of Tajikistan committed to apply such a principle in accordance with international agreements, shall mean treatment to services and service suppliers of any country or territory that is no less favorable than that accorded to like services and service suppliers of any other country.

4) *Person* shall mean any natural or legal person recognized by the legislation of the Republic of Tajikistan, including foreign natural or legal person.

5) *Goods* shall mean any movable tangible articles or assets, but not securities, commercial papers or cash.

6) *Export* shall mean the transport or delivery of goods from the territory of the Republic of Tajikistan to a foreign country or territory in accordance with the customs legislation of the Republic of Tajikistan.

7) *Import* shall mean the transportation or delivery of goods or services from any foreign country or territory into the territory of the Republic of Tajikistan in accordance with the customs legislation the Republic of Tajikistan.

8) *Transit* shall mean transportation of goods 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, without such goods entering the regular commerce of Tajikistan.

9) *Restrictive Measure* shall mean 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.

10) *Quantitative Restriction* shall mean the highest total value or maximum quantity of certain goods that may be exported or imported within the prescribed

3. Upon the written application of any interested person the state authority

II. FOREIGN TRADE IN GOODS

CHAPTER I

IMPORT AND EXPORT

Article 11. 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 may import or export goods, including but not limited to:

- 1) Goods intended for sale, inward or outward processing, or any other commercial transaction, subject to legislation that regulates commercial activities;
- 2) Goods intended for own use of legal entities, personal or family use; and
- 3) 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

Article 14. Prohibited Imports

1. Goods shall not be imported into the Republic of Tajikistan or transited through its territory if trade in such goods is prohibited in the Republic of Tajikistan under the legislation of the Republic of Tajikistan.

2. The Government 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.

CHAPTER II

QUANTITATIVE RESTRICTIONS AND LICENSING

§1. QUANTITATIVE RESTRICTIONS

Article 15. Conditions

1. The Government may impose quantitative restrictions on exports only:

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

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

2. The Government may impose quantitative restrictions on imports as a safeguard measure pursuant Articles 45-51 of this Law.

Article 16. Notice of Quantity

- 3) Protect national security;
- 4) Protect environment or exhaustible natural resources;
- 5) Protect intellectual property rights; or
- 6) Enforce any special rules for trade in gold and silver.

Article 22. Authority to Grant Licenses

1. The competent authority shall be the sole authority competent to decide upon applications for import, transit or export licenses.
- 2.

Article 26. Cancellation of a License

1. Once issued, the competent authority may cancel the license only if:
 - 1) 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;
 - 2) A license holder violates the conditions of a license;
 - 3) A license was issued in violation of this Law or other relevant legislation; or
 - 4) 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, subparagraph 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. 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 authority shall maintain the register of issued licenses.
3. The competent authority shall prescribe the content and the manner of maintaining the register of issued licenses.

Article 28. Automatic License

1. 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.
2. 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.
3. 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 III

SPECIAL REQUIREMENTS

Article 29. Certifications

1. Where a contract, domestic or foreign legislation, or international agreement requires 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 authority, such certificates and documents shall be issued or certified by the authority designated by the Government.

2. The Government shall establish the manner of issuance of certificates and certification of documents referred to in paragraph 1 of this Article.

Article 30. Veterinary, Sanitary and Phytosanitary Requirements

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III. FOREIGN TRADE IN SERVICES

Article 32. Scope

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)

- 4) Measures to safeguard balance of payments.
2. The Government 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.

CHAPTER I
ANTI-DUMPING AND COUNTERVAILING DUTIES

Article 36
Definitions

When used in Articles 37-44, the following terms shall have the meaning specified below:

- 1) *Anti-Dumping Duty* shall mean a special duty imposed on importation of goods in order to offset the effects of dumping.
- 2) *Dumping* shall mean importation of goods into 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.
- 3) *Normal Value* shall be (a) the comparable price for the like product when

Article 39. Application

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

- 1) Description of the allegedly dumped product;
- 2) 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;
- 3) The names of the exporting countries, each exporter or foreign producer known to applicant, and a list of the importers of the allegedly dumped; and
- 4) 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 40. 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:

- 1) Meet those parties with adverse interests;
- 2) Present their views orally;
- 3) Have at their disposal any relevant non-confidential information.

2. The competent 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 authority shall make a decision.

Article 41. Decision

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

Article 42. Provisional Measures

1. The Government 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:

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Article 42. 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

Article 46. Decision

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 appropriate manner and brought to attention of all interested parties.

Article 47. 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 48. Duration

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 49. Liberalization

1. Where the duration of a safeguard measure is more than one year, the

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 51. 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:

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

2) 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 48 of this Law.

CHAPTER III

MEASURES TO SAFEGUARD BALANCE OF PAYMENT

Article 52. Conditions and Procedure

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

1) Forestall an imminent threat of, or stop a serious decline in monetary reserves;
or

2) Achieve an increase of very low monetary reserves.

2. Measures to safeguard the balance of payments shall not be prescribed or implemented for the purpose of protecting domestic producers.

Article 53. 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

Article 57. Responsibility for Violation of this Law

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

VI. TRANSITIONAL AND FINAL PROVISIONS

Article 58. Rights Granted by Individual Legal Acts or Decisions

All rights related to foreign trade activities granted by individual legal acts or administrative decisions, which were not exercised entirely by the day this law enters into effect, may be exercised within the time limits set by such acts or decisions.

Article 59. Implementing Regulations

The regulations necessary for application of this Law shall be passed not later than six months after the day this Law comes into effect.

Article 60. Legal Acts That Cease to be Effective

On the day this Law comes into effect, the following laws and legal acts shall cease to be effective:

- 1) The Law of the Republic of Tajikistan on Foreign Trade Activity
- 2) Customs Code of the Republic of Tajikistan, Article 344

Article 61. Coming into Force

This Law shall come into force after its official publication.