

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

- 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 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,

- 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 -1.1362 (s)-6.4(f)6.6ss oof.2(o)5.2(o)-65.2g4.3()4.3(tl.4()56.4()

- 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 applicable 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 orga

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

- 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

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

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;

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

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 commercial presence in the territory of any other

- 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,

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 cause 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 officially by the competent authority.

2. The decision on initiation of an investigation shall be published in an established manner and brought to the 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 it wc y

- 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

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 (Ahloqiy 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