

Not official translation

**THE LAW ON PROTECTION OF DOMESTIC MARKET
(SAFEGUARD MEASURES)
OF
THE REPUBLIC OF ARMENIA**

TITLE I. GENERAL PROVISIONS

Article 1. The Subject Matter of the Law

1. This law determines the relations connected with the application of safeguard measures on the import of products into the territory of the Republic of Armenia.

2. This law does not apply to prohibitions, quantitative restrictions or surveillance measures applied on the import of products under other laws of the Republic of Armenia.

Article 2. The Legislation on Safeguard Measures

1. The legislation on Safeguard Measures consists of the Constitution of the Republic of Armenia, the Civil Code of the Republic of Armenia, the Customs Code of the Republic of Armenia, this Law and other legal acts.

2. Should international treaties of the Republic of Armenia establish other norms than those being stipulated by this Law, the provisions of the international treaties shall apply.

Article 3. Basic Concepts Used in the Law

The followings are basic concepts used for the purposes of this Law:

- “*economic branch*” shall mean the producers as a whole of products which are like or directly competitive to the investigated product, operating in the territory of the Republic of Armenia, or those of the producers operating in the territory of the Republic of Armenia, whose collective output constitutes more than the half of the total production of like or directly competitive products in the Republic of Armenia;
- “*serious injury*” shall mean a significant and overall impairment in the position of an economic branch of the Republic of Armenia;
- “*threat of serious injury*” shall mean serious injury that is clearly predictable and imminent;
- “*investigated product*” shall mean a product imported into the Republic of Armenia, which is subject to an investigation for the purpose of application of a safeguard measure;
- “*tariff quota*” shall mean the application of differentiated tariff rates on the import of a product depending on the import volume of that product.
- “*interested parties*” shall mean:
 - a) the exporter(s) of the investigated product from a foreign country, or foreign producer(s) of the investigated product;

- b) the importer(s) of the investigated product;
 - c) societal amalgamation, union of legal persons a majority of the members of which are producers, exporters or importers of the investigated product;
 - d) the government(s) of the exporting country(ies);
 - e) producers of the like or directly competitive product in the Republic of Armenia;
 - f) societal amalgamation, union of legal persons a majority of the members of which are producers of the like or directly competitive product in the Republic of Armenia;
 - g) consumer unions;
 - h) industrial users of the investigated product;
- “*Authorized body*” shall mean a state governmental body authorized by the Government of the Republic of Armenia, which performs the proceedings envisaged by this Law.
 - “*participating interested parties*” shall mean those interested parties that have informed the Authorized body in a written form on their interest in participating in investigations, in accordance to the provisions of this Law.

Article 4. Safeguard Measures and Terms of Their Application

1. For the purpose of this law, safeguard measures constitute an increase of the applied customs tariff rate on the import of a product, application of a tariff quota on the import of a product, application of a quota on the import of a product and application of any combination of the mentioned measures.

2. Safeguard measures on products imported into the territory of the Republic of Armenia shall be applied only if it is determined, through an investigation conducted pursuant to the provisions of this Law, that the investigated product is imported into the territory of the Republic of Armenia in such increased quantities (absolute or relative to the production of the economic branch) and under such conditions that cause or threaten to cause serious injury to the economic branch.

TITLE II. PROCEDURE OF THE CONDUCT OF INVESTIGATIONS

Article 5. Initiation of an Investigation

1. In case of the existence of sufficient grounds the Authorized body initiates an investigation aimed at determining the existence of serious injury or threat of serious injury caused to the Economic branch, as well as the causal link between serious injury or threat of serious injury and the import of the investigated product in increasing quantities and under given conditions. An investigation may be initiated:

- a) upon the initiative of the Authorized body;

- b) on the basis of a written application submitted to the Authorized body by an economic branch;
- c) on the basis of a written application submitted to the Authorized body by a person acting on behalf of the economic branch in due form of law.

2. A written application submitted to the Authorized body shall contain the following information:

- a) names and addresses of applicant(s) and of producers known to the applicant(s) operating in the territory of the Republic of Armenia who produce like or directly competitive products;
- b) description of the imported product, including its technical characteristics, uses, the tariff classification number and the customs tariff rate applied on the import of the product;
- c) description of like or directly competitive products produced in the Republic of Armenia, including their technical characteristics and uses;
- d) percentage of the production of like or directly competitive products represented by the applicants in the total production of those products in the Republic of Armenia;
- e) causal link between the increased import of the given product and serious injury caused or threat of serious injury to the economic branch;
- f) factors indicating the existence of serious injury caused to the economic branch during three years preceding the application, including:
 - volume of the domestic production;
 - utilization of production capacity;
 - inventory level of the product;
 - market share;
 - employment and wages;
 - changes in the product prices;
 - profits and losses;
- g) in case of a serious injury, in addition to the information mentioned in the subparagraph (f) of this paragraph, also the probability that the import volumes of the investigated product into the territory of the Republic of Armenia will increase and serious injury will result;
- h) if a provisional measure is requested in the application, information substantiating the necessity of imposing the provisional safeguard measure.

3. An investigation may be initiated in case of incompleteness of the information referred to in paragraph 2 of this Article, if the information submitted to the Authorized body and the information under its disposal are sufficient for conducting the investigation and making appropriate conclusions.

4. In order to verify the existence of sufficient grounds for initiating an investigation the Authorized body shall examine the accuracy of the facts submitted to it or being under its disposal, and may request additional information from the applicant within 10 days after the receipt of a written application. Upon receipt of a written request for additional information from the Authorized body, the applicant shall submit the requested information to the Authorized body within 10 days after the receipt of the request.

5. The written application may be withdrawn prior to initiation of the investigation. In this case the application shall be considered not to have been submitted.

Article 6. Consultations with Producers of the Republic of Armenia

1. Consultations on safeguard measures between the Authorized body and economic entities of the economic branch shall take place before the initiation of an investigation upon a written request made by economic entities of the economic branch or by the initiative of the Authorized body.

2. Consultations shall take place within 10 days of the submission to the Authorized body of the written application mentioned in the Article 5 of this Law.

3. Issues on the trends and conditions of the import of the investigated product, on economic and commercial situation related to it, as well as on measures to be applied shall be discussed during consultations.

4. Consultations shall be conducted also during the application of a safeguard measure. Such consultations shall be organized not later than the mid-term of the application period of a safeguard measure, and shall cover the following issues:

- a) the effects of the measure,
- b) the process and modes of liberalization of the measure,
- c) the necessity of further application of the measure.

Article 7. Decision on Initiating an Investigation

1. In case of the existence of sufficient grounds the Authorized body shall, within one month of receipt of the application made by the economic branch or on its behalf, submit to the Government of the Republic of Armenia a proposal for a permission to initiate the investigation in due form of law of the Republic of Armenia.

2. The Government of the Republic of Armenia shall make a decision on initiating the investigation or on refusing the initiation of the investigation within fifteen days of receipt of the proposal made by the Authorized body.

3. In case of the absence of sufficient grounds for the initiation of an investigation the Authorized body shall, within one month of receipt of the application made by the economic branch or on its behalf, make a decision not to initiate the investigation. The Authorized body shall inform, in a written form, the applicant(s) about its decision within seven days of the date the decision has been made.

Article 8. Notification on Initiation of an Investigation

1. The Authorized body shall publish a notification on the initiation of an investigation in mass media.

2. The notification shall include the following information:

a. description of domestic like or directly competitive products, including their technical characteristics and uses;

b. names and addresses of the applicants and producers of domestic like or directly competitive products known to the Authorized body;

c. the country(ies) of origin of the investigated product;

d. summary of the information received with respect to the matter, on which the statement on the increased quantities of import, serious injury or threat of serious injury is based;

e. information on the possibility of application of a provisional measure;

f. schedule of conducting the investigation, including:

- the proposed date of application of the provisional measure;
- the proposed dates of initiation and completion of the investigation;
- the dates by which the interested parties shall inform the Authorized body on their desire to participate in the investigation;
- the dates by which the interested parties may submit their written arguments to the Authorized body;
- the date by which the participating interested parties may apply to the Authorized body for consultations.

Article 9. Duration of an Investigation

The duration of an investigation cannot exceed six months. The Authorized body may extend the mentioned period maximum by two months if there are sufficient grounds for extension. In the event of extension of the period the Authorized body shall publish an official notification in mass media indicating the reasons and the duration of the extension.

Article 10. Consultations Upon Request of the Participating Interested Parties

1. The Authorized body shall, upon request of the participating interested parties, organize consultations, at which all participating interested parties may present information and arguments. A written request for consultations shall be submitted no later than 15 days after the publication of the decision on application of a provisional measure, and if a provisional measure is not projected, within 45 days of initiation of the investigation.

2. Participating interested parties shall submit to the Authorized body the list of the representatives who will participate in the consultations at least 7 days before the date of consultations.

3. Consultations shall be presided over by an authorized representative of the Authorized body, who shall assure that confidentiality of information representing trade and (or) state (official) secret is preserved, as well as shall provide an equal opportunity for all the parties to present their views. The Authorized body shall make protocols of the consultations, which shall be promptly placed in the public file, with the exception of confidential information, pursuant to the Article 23 of this Law.

Article 11. Written Arguments

1. In case if consultations are held, any participating interested party may submit written arguments and objections on any matter relevant to the investigation no later than 10 days before the scheduled date of consultations. Within 10 days after the consultations parties participated in consultations may submit further written arguments and objections in response to the information and arguments presented during the consultations.

2. In case if consultations are not held, any participating interested party may submit to the Authorized body written arguments relevant to the investigation, no later than 45 days before the proposed date of completion of the investigation. Within 10 days after the deadline for presenting the written arguments participating interested parties may submit additional written arguments in response to the written arguments submitted by other parties.

3. In case of considering the possibility of application of a provisional safeguard measure participating interested parties may submit to the Authorized body their written arguments relevant to the investigation, no later than 15 days before the proposed date of the application of a provisional safeguard measure.

Article 12. Public File

1. The Authorized body shall establish a public file on each investigation, where, subject to the requirements on preserving confidentiality pursuant to the Article 23 of this Law, all the conclusions, decisions, notifications, protocols of consultations, written arguments submitted to the Authorized body that are relevant to the matter, and any other document the Authorized body considers appropriate for public disclosure shall be placed.

2. Materials of the public file shall be available for the general public for acknowledgement and copying.

Article 13. Information and Facts Available

1. For the purpose of conducting investigations the Authorized body may request information from the state governing and local self-governing bodies, as well as participating interested parties.

2. The Authorized body may make its conclusions and decisions on the basis of the information being at its disposal if any participating interested party restricts access to or refuses to provide the necessary information within the period of time prescribed by the Authorized body or otherwise significantly impedes the investigation process.

Article 14. The Conclusion on Serious Injury or Threat of Serious Injury

1. The Authorized body shall, through an investigation, make a conclusion on serious injury or threat of serious injury, including also the causal link between serious injury or threat of serious injury and importation of the investigated product in increased quantities and under given conditions. The conclusion of the Authorized body shall be based on the factors relevant to the matter having a bearing on the situation in the economic branch, particularly:

- a. import volume of the investigated product and the rate of its increase;
- b. share of the domestic market captured by the increased imports of the investigated product;
- c. prices of the imported products,
- d. the impact of imports of the investigated product in increased quantities and under given conditions on the economic branch, taking into account the following factors:

- volumes of the domestic production,
- production capacity utilization,
- inventories of the product,
- market share,
- sales level,
- employment and wages,
- product prices in the domestic market,
- profits and losses,

- e. factors not related to the increased imports of the investigated product, which are causing or threatening to cause serious injury to the economic branch.

2. In case of threat of serious injury the Authorized body, in addition to the factors mentioned in the paragraph (1) of this Article, shall take into account the following factors:

- a. the export capacities of the investigated product in the exporting countries or countries of origin;
- b. possibilities of increasing the imports of the investigated products into the territory of the Republic of Armenia;
- c. other factors.

Article 15. Termination of Investigation

1. If, through the investigation, the Authorized body concludes that no safeguard measures are necessary, it shall submit a proposal to the Government of the Republic of Armenia on terminating the investigation in due form of law.

2. The decision to terminate the investigation shall include conclusions made in the result of the investigation and a brief description of the grounds of the conclusions.

TITLE III. APPLICATION OF SAFEGUARD MEASURES

Article 16. Consultations with Interested Countries

1. Before application of a safeguard measure and, in case of application of a provisional safeguard measure, immediately after the measure takes effect, the Authorized body shall carry out consultations with the interested countries supplying the investigated product upon an appropriate written request.

2. The following issues shall be examined during the consultations:

- a. trends and conditions of imports of the investigated product, the economic and trade situation related to it;
- b. opportunities for the implementation of mutually acceptable measures aimed at improving the created situation;
- c. the measures to be applied and their possible effects.

Article 17. Application of Safeguard Measures

1. If the Authorized body, after the investigation conducted pursuant to the provisions of this Law, concludes that the investigated product is being imported into the territory of the Republic of Armenia in such increased quantities and under such conditions that cause or threaten to cause serious injury to the economic branch, the Authorized body shall submit to the Government of the Republic of Armenia a proposal on the application of a safeguard measure, in due form of law.

2. The Government of the Republic of Armenia shall discuss the proposal of the Authorized body within one month of the date of its receipt, and shall, if necessary, take appropriate measures for application of the safeguard measure in due form of law of the Republic of Armenia.

3. In the case of application of quotas and tariff quotas the release of products into the territory of the Republic of Armenia for free circulation may be allowed only upon availability of import permission. Import permissions or other documents necessary for importation shall be granted in due form established by the Government of the Republic of Armenia.

3. Before the application of the measure, safeguard measures shall not prevent the release of the products into the territory of the Republic of Armenia that have already been on their way to the Republic of Armenia.

Article 18. Application of Provisional Safeguard Measures

1. Provisional safeguard measures shall be applied only in critical circumstances where there are evident facts, demonstrating that the increased import of the investigated product have caused or threatened to cause serious injury to the economic branch, for the prevention or remedy of which expeditious interference is required.

2. Provisional safeguard measures shall be applied in the form of an increase of applied customs tariff rates (independently from the tariff rate applied on the import of the product). The duration of provisional safeguard measures can not exceed 180 days.

3. The Government of the Republic of Armenia may, in due form, adopt Decisions having power of law regarding the application of provisional safeguard measures.

4. The Decisions on application of provisional safeguard measures shall be adopted not earlier than one month from and not later than six months after the date of initiation of the investigation.

5. The product subject to a provisional safeguard measure can be imported into the territory of the Republic of Armenia for free circulation upon payment of customs duty set by the provisional measure, or upon provision of a security or other equivalent assurance.

6. The Authorized body shall continue investigations during the application of a provisional safeguard measure in order to determine the necessity of further application of a safeguard measure.

7. If, after further investigations, the Authorized body concludes that increased imports of the investigated product into the territory of the Republic of Armenia do not cause or threaten to cause serious injury to the economic branch, the exceeding amounts of duties paid during the application of the provisional safeguard measure shall be refunded to the payers within 3 months after the decision of the Government of the Republic of Armenia on it.

Article 19. Quotas as Safeguard Measures

1. In case of application of quotas the permitted quantity of the import of the investigated product shall be established based on the average quantity of imports of the given product during the last three years. A quantity less than the average quantity of imports during the last three years may be established if it is necessary to prevent or remedy the serious injury caused or threat of serious injury.

2. If the investigated product is imported into the territory of the Republic of Armenia from more than one country, the permitted import quantity established by the quota shall be allocated among supplying countries. The allocation of the permitted import quantities among the supplying countries may be made by consent with the supplying countries. If allocation by this method is difficult to implement in practice, the allocation among the supplying countries shall be carried out proportionately, based on their average share in the total import of the given product into the Republic of Armenia during the last three years.

3. In the case if the allocation methods referred to in paragraph 2 of this Article are not practicable or reasonable, other methods of allocation may be used after prior consultations with the supplying countries.

4. The duration of a safeguard measure, where the allocation method mentioned in paragraph 3 of this article is used, shall not exceed 4 years. This period cannot be extended, notwithstanding the provisions of the Article 20 of this law.

5. Other methods of allocation cannot be used in case of threat of serious injury.

Article 20. The Duration of a Safeguard Measures

1. The duration of an initial safeguard measure, including the duration of the provisional safeguard measure, shall not exceed 4 years.

2. The mentioned period can be extended, if the Authorized body determines through investigations, conducted according to the provisions of this Law, that the application of the safeguard measure continues to be necessary to prevent or remedy serious injury, and that there is evidence that the situation in the economic branch is improving due to the application of the safeguard measure.

3. The investigation with respect to the extension of the period of the safeguard measure shall be initiated at least six months before the end of the period of the initial measure already being applied.

4. The total duration of a safeguard measure (including the duration of the provisional measure and the durations of the initial and extended measures) shall not exceed 8 years.

5. Extension of the period of a safeguard measure shall cover the same products, on which the initial safeguard measure was applied. The conditions of the extended safeguard measure shall not be more restrictive than those at the end of the period of application of the initial measure.

6. If the duration of a safeguard measure exceeds one year, the conditions of application of the measure shall be periodically liberalized during the whole period of application, as well as during the extension period of the measure.

Article 21. Review of Safeguard Measures

1. If the duration of applied safeguard measure is more than 3 years (including the duration of application of the provisional measure), the Authorized body shall, not later than the mid-term of the period, conduct a review of the current situation connected, particularly, with the effects of the safeguard measure on the economic branch, as well as with the process of implementing the plan aimed at adjustment, regulation or development of the economic branch for meeting foreign competition. The Authorized body shall, through the review, determine the necessity of continuing or ceasing the application of the safeguard measure, or modifying the conditions of its application.

2. The Authorized body shall publish a notification on the results of the review and of conclusions and decisions thereof.

3. Investigations for review shall be conducted according to the procedure of investigations established by this Law.

Article 22. Reapplication of a Safeguard Measure

1. A safeguard measure may be reapplied on the import of a given product, on which a safeguard measure has been applied, only after 2 years of expiration of the applied safeguard measure.

2. Notwithstanding the provision of the paragraph 1 of this Article, where the duration of the applied safeguard measure does not exceed 180 days, a safeguard measure with a duration of 180 days or less may be reapplied to the import of a given product if:

- a. at least one year has elapsed since the date of introduction of a safeguard measure on the import of that product, and
- b. safeguard measures have not been applied on the same product more than twice in the five-year period immediately proceeding the date of reapplication of the measure.

Article 23. Preservation of Confidentiality.

1. The Authorized body shall, in due form of law, preserve confidentiality of any information representing a trade secret, which has been obtained in the course of conduct of its authority granted by this Law.

2. The employees of the Authorized body have no right to publish or otherwise disseminate, as well as to use for personal advantage any confidential and official information obtained in the course of performing their official duties.

3. In case of disclosure of the information constituting a trade secret the injury caused to an economic entity is subject to reimbursement from the state budget, in due form of law.

TITLE IV. FINAL PROVISIONS

Article 24. Entry into Force

This Law shall enter into force from the date of its official promulgation.

The President of the Republic of Armenia

R. Kocharyan

Yerevan
14 May, 2001
HO - 175