

LAW ON THE PREVENTION OF UNFAIR COMPETITION IN IMPORTS

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Aim and scope

Article 1- This Law sets forth the rules and principles as regards the procedures to be applied and measures to be taken for purposes of protecting a domestic industry against injury caused by unfair competition practices in imports namely, dumped or subsidised imports; formation of a Board that will establish principles and application decisions, and duties of such Board.

Definitions

Article 2- Following are the definitions of the terms used in this law:

- a) Dumping: Export price of a product to Turkey being less than the normal value for the like product,
- b) Subsidy: A direct or indirect financial contribution by the country of origin or export, which confers a benefit or any form of income or price support within the meaning of Article XVI of GATT 1994,
- c) Export Price: The price actually paid or payable for the product when sold for export,
- d) Like Product: A product which is alike in all respects to the product which is dumped or subsidised, or in the absence of such a product, another product with similar characteristics,
- e) Normal Value:
 - 1. The comparable price paid or payable, in the ordinary course of trade, for the like product when destined for consumption in the country of origin or export,
 - 2. When there are no sales of the like product in the domestic market of the country of origin or export in the ordinary course of trade, or where such sales do not permit a proper comparison, the normal value shall be the export price of the like product when exported to an appropriate third country, provided that this price is representative or the price calculated on the basis of the cost of production in the country of origin plus a reasonable amount for profit,
- f) Regulation: Regulation on the Prevention of Unfair Competition in Imports,
- g) Dumping Margin: The amount by which the normal value exceeds the export price,
- h) Amount of Subsidy: Direct or indirect financial contribution maintained by the country of origin or export for manufacture, production, export or transportation of the product sold for export, or total amount of benefits in any form of income or price support in the sense of Article XVI of GATT 1994,
- i) Injury: Material injury or threat of material injury to a domestic industry or material retardation of the establishment of such an industry,
- j) Ministry: Ministry of Trade,
- k) General Directorate: General Directorate of Imports,
- l) Board: Board of Evaluation of Unfair Competition in Imports,
- m) GATT 1994: General Agreement on Tariffs and Trade 1994,
- n) Agreement on Subsidies and Countervailing Measures: Agreement at the Annex-1 to the Agreement Establishing the World Trade Organization, approved by the Law dated 26/1/1995 and No.4067 and ratified by Decision of Council of Ministers dated 3/2/1995 and No.95/6525,
- o) Agreement on Implementation of Article VI of GATT 1994: Agreement in the Annex-1 to the Agreement Establishing the World Trade Organization, approved by the Law dated 26/1/1995 and No.4067 and ratified by the Decision of Council of Ministers dated 3/2/1995 and No.95/6525.

Circumstances warranting imposition of measures

Article 3- Measures shall be taken in cases where dumped or subsidised imports have caused material injury or threatened to cause material injury to the domestic industry or caused material retardation of an industry.

However, in order that measures be taken in respect of subsidised imports, it should also have been determined that the subsidy is specific to an enterprise/group of enterprises or industry/group of industries as defined in Article 2 of the Agreement on Subsidies and Countervailing Measures.

Complaint and examination

Article 4- The Directorate General may, upon complaint or, where necessary, *ex officio*, initiate a dumping or subsidy examination. Domestic producers or any natural or legal person or association acting on behalf of a domestic industry, who claim that material injury or threat thereof has occurred by reason of dumped or subsidised imports or that the establishment of an industry has been materially retarded due to such imports, may submit a written application to the Directorate General.

Procedures and principles as regards the complaint and the examination shall be set out in the regulation to be issued by the Ministry.

Duties of the General Directorate

Article 5- Duties of the General Directorate under this Law are as follows:

- a) To carry out the preliminary examination in the light of the information and documents submitted or other information available, upon complaint or *ex officio* where necessary;
- b) To submit its proposal to the Board on whether or not to initiate an investigation;
- c) Where an investigation is initiated, to carry out such investigation and make proposals to the Board concerning the measures;
- d) To act as the secretariat of the Board and to dispose of other duties to be assigned by the Board

The Board of Evaluation of Unfair Competition in Imports and its duties

Article 6- The Board, headed by the Director General of Imports or the Deputy Director General assigned by the latter, consists of the representatives of the Union of Chambers of Commerce and Industry, Union of Chambers of Agriculture, relevant government institutions designated by the Ministry and related head of department in the Directorate General of Imports.

The Board may request information from the universities and other institutions, where necessary.

The duties of the Board are as follows:

- a) To decide whether or not to initiate an investigation or whether to suspend an ongoing investigation;
- b) Where sufficient evidence exists, to submit its decision on the adoption of provisional measures, to the Ministry for approval;
- c) To evaluate the results of the investigation, to take necessary measures and to submit the decision for definitive measures to the Ministry for approval;
- d) To propose undertakings in the course of an investigation, to decide whether or not to accept an undertaking proposed and to take relevant measures where undertakings have been violated.

The working procedures and principles of the Board shall be set out in the regulation to be issued by the Ministry.

Anti-dumping duty and countervailing duty

Article 7- An amount equal to the margin of dumping or the amount of subsidy, specified by the Board and approved by the Ministry consequent to the investigation, shall be imposed on dumped imports as anti-dumping duty and on subsidised imports as countervailing duty, respectively. However, where it is determined that a rate or amount of duty lesser than the calculated dumping margin or amount of subsidy would be adequate to remove the injury caused by dumped or subsidised imports, such lesser rate or amount shall be imposed.

The principles on the retroactive application of such duties for products imported earlier, shall be determined by the Decree of the Council of Ministers. However, the period for retroactive application shall not exceed 90 days prior to the date of imposition of provisional measures.

Payer

Article 8- The payer of anti-dumping duty or countervailing duty is any natural or legal person importing the dumped or subsidised product.

Collection authority

Article 9- Anti-dumping duties or countervailing duties shall be collected or secured by the customs authorities, independent of other charges ordinarily imposed on imports.

Investigation

Article 10- An investigation shall be initiated, where consequent to an examination initiated either ex officio or upon complaint, it is determined that sufficient evidence on dumped or subsidised imports and injury resulting thereof exist.

The procedures and principles of the investigation shall be set out in the regulation to be issued by the Ministry.

Undertakings

Article 11- The country of origin, country of export or the exporter may, in the course of the investigation, offer undertakings on their own initiative or upon proposal by the Board, as to eliminate the injury caused by dumped or subsidised imports subject to investigation. Upon acceptance of undertakings by the Board, the investigation may be suspended without imposition of provisional or definitive measures or concluded. The conclusion of the investigation shall not prevent the collection of provisional duties imposed prior to the entry into force of the undertakings.

In the case of breach of undertakings, the Board may impose provisional or definitive measures based on the available facts. The procedures and principles as regards undertakings shall be set out in the regulation to be issued by the Ministry. The validity and review principles of the undertakings shall be set out in the Decree of the Council of Ministers.

Provisional measures

Article 12- Where, in the course of the investigation on imports subject to complaint, preliminary affirmative determinations have been made as regards dumped or subsidised imports and injury caused by such imports, the imposition of provisional duties in the form of security at an amount equal to the margin of dumping or the amount of subsidy as specified by the Board or at a lesser rate or amount adequate to remove the injury may be decided, for purposes of preventing injury during the investigation, upon the approval of the Ministry. Such a decision shall be announced to the interested parties by way of publication in the Official Gazette. Provisional measures shall be imposed no earlier than 60 days from the initiation of the investigation. The duration of provisional measures shall be limited to 4 months. However, it may be extended to a period not exceeding 6 months by the decision of the Board and approval of the Ministry, upon request by exporters representing a significant percentage of the exports of the product concerned to Turkey. In the course of a dumping investigation, to examine whether a duty lower than the margin of dumping would be sufficient to remove the injury, these periods may be applied as 6 and 9 months. The application principles of provisional measures shall be set out in the Decree of the Council of Ministers.

Definitive measures

Article 13- Where, as a result of the investigation an affirmative determination has been made as regards dumped or subsidised imports and injury caused thereby, a definitive anti-dumping duty or countervailing duty at an amount equal to the dumping margin or the amount of subsidy as specified by the Board and finalised by the approval of the Ministry, or at a lesser amount or rate adequate to remove the injury, shall be imposed to prevent injury being caused. In

the case where any security deposit has been made, the provisions of Article 14 shall apply. However, when the decision for definitive measures has been taken as regards the threat of injury or material retardation of a domestic industry, in order that the security deposit made during the investigation be collected, the Board shall determine that injury would occur but for the imposition of provisional measures. Where no such determination has been made, any security deposit made during the period of investigation as provisional measures shall be refunded. The procedures and principles on the process to be applied as regards the duration, application, suspension, review, refund and the circumvention of the anti-dumping or countervailing duty in force, shall be set out in the Decree of the Council of Ministers. Anti- dumping and countervailing duties shall not be applied together for the purpose of counteracting the same situation where the product subject to investigation is both dumped and subsidized.

The imposition of anti-dumping or countervailing duty shall not hinder the importation of the product concerned.

Refunds

Article 14- If the definitive anti-dumping duty is higher than the security deposits made, the difference shall not be collected. If the definitive duty is lower than the security deposit made, the difference shall be released.

Where it has been decided to terminate the investigation, the provisional duties shall be revoked and any security deposit made shall be released.

The anti-dumping duty or countervailing duty previously collected for the product to be returned or destroyed due to the violation of a sales contract, shall be refunded in accordance with the provisions of the customs legislation on the reimbursement of the customs duties.

Other legislation

Article 15- The provisions of the customs legislation, procedural or substantive, as regards the registration, assessment, collection, reimbursement, pursuance and assurance of customs duty shall also be applicable for the registration, assessment, collection, reimbursement, pursuance and assurance of anti-dumping and countervailing duties, unless in contradiction with this Law.

The anti-dumping duty or countervailing duty not paid shall be collected by the customs authorities in accordance with the provisions of the Law No. 6183 on the Procedure of the Collection of Public Claims.

The provisions of the Agreement on Implementation of Article VI of GATT 1994 and Agreement on Subsidies and Countervailing Measures shall be followed in cases where this Law does not contain any relevant provision.

Repealed and not applicable provisions

Article 16- Article 21 of the Customs Code No. 1615 is hereby repealed.

In the implementation of this Law, the provisions of the Customs Code and other laws shall not be applicable if in conflict with this Law.

Decrees of the Council of Ministers and Regulations

Article 17-

The Decree of the Council of Ministers envisaged in Articles 7, 12, 13 and,

Regulations mentioned in Articles 4, 6, 10 and 11,

shall be issued within 3 months following the publication of this Law.

Entry into force

Article 18- This Law shall enter into force within 3 months following its publication.

Implementation

Article 19- The provisions of this Law shall be implemented by the Council of Ministers.

Termination and suspension of the investigation

Addendum 1- The investigation shall be terminated by the Board, where consequent to the investigation it is determined that the imports subject to investigation are not dumped or subsidised or that there is no injury caused by such imports or where the complaint has become futile. The investigation for dumping or subsidy shall also be terminated if it is determined that the margin of dumping or amount of subsidy or volume of imports is negligible. The negligible rates as regards the margin of dumping or amount of subsidy or volume of imports shall be established by the regulation. The Board may also decide to terminate the investigation, where the complaint is withdrawn. The investigation may be suspended upon acceptance of undertakings. The investigation may either be terminated or suspended if the provision of subsidies has ceased.

Review of definitive measures and undertakings

Addendum 2- The decision for definitive measures and undertakings may be reviewed at the request of one of the interested parties or *ex officio*. Where a review decision has been made by the Board, a new investigation shall be initiated and carried out. However, initiation of a new investigation shall not hinder the application of the definitive duties and undertakings in force. The decision whether to impose definitive measures and undertakings consequent to the investigation shall rest with the Board. The decision for the definitive measure may also be reviewed at the request of the producer or exporters which have not exported the product concerned during the period of investigation. Until the entry into force of the decision concerning the result of the investigation initiated upon such a request, definitive measures in force shall be subject to security deposit for the product subject to investigation exported by the producer or exporter who filed the request. As regards the security deposits made, relevant provisions of the Article 14 shall be followed consequent to the investigation.

List of Legislation Changing Articles in Law No:3577

Number of Law or Decree	Changed Articles	Date of Issue
4412	1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, Addendum 1, Addendum 2	25/07/1999
700	6	7/7/2018
Presidential Decree No:1	6	10/7/2018

