

**NOTIFICATION OF LAWS, REGULATIONS AND  
ADMINISTRATIVE PROCEDURES RELATING  
TO SAFEGUARD MEASURES**

**CROATIA**

The following communication, dated 12 July 2002, has been received from the Permanent Mission of Croatia.

Pursuant to Article 39c of the Law on Trade ("Official Gazette", No. 11/96, 75/99, 76/99, 62/01 and 109/01), the Government of the Republic of Croatia, at its session of 13 June 2002 adopted this

**DECREE  
ON SAFEGUARD MEASURES**

**I. GENERAL PROVISIONS**

*Article 1*

This Decree sets out terms and procedures for the introduction of safeguard measures on imports of products into the customs territory of the Republic of Croatia 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 with the aim to remedy injuries and distortions caused by such imports.

*Article 2*

The terms used in this Decree shall have the following meanings:

1. "Domestic industry" means the production of the like or directly competitive products at the customs territory of the Republic of Croatia, which is consisting of all the producers of these products or producers whose output of the products constitutes a major proportion of the total production of these products.
2. "Serious injury", means the significant impairment in the position of the domestic production.
3. "Imports" means the release of products into free circulation in the customs territory of the Republic of Croatia.

4. "Threat of serious injury" means the estimation of the danger for the impairment of the domestic industry.

5. "Like product" means a like product, including its physical characteristics, quality and appearance.

6. "Directly competitive product" means a product with different physical characteristics or composition than the imported product under investigation, but which may have the same or like functions or the same or like market effects as the imported product, or which fulfils the same or like needs and may be a substitute for the imported product in the market.

7. "Interested parties" means the authorities of exporting countries, exporters, importers and domestic producers of the like or a directly competitive products and other domestic and foreign natural and legal persons that, during a procedure, demonstrate their direct legal and material interest in the product concerned.

8. "Exporting country" means the country of origin, and in case of a product, which is not exported to the customs territory of the Republic of Croatia directly from the country of origin, it is the country of imports.

### **Application of Safeguard Measures**

#### *Article 3*

Safeguard measures shall be applied on exceeding imports of a specific product into the customs territory of the Republic of Croatia, if it has been determined in an investigation that, as a result of an absolute or relative increase of imports, an injury has been caused to the domestic industry or the threat of serious injury to the domestic production.

Safeguard measures shall not be applied against a product originating in a developing country Member of the World Trade Organization as long as its share of imports of the product concerned does not exceed 3 per cent of the total imports of the product concerned, provided that developing country Members of the World Trade Organization with less than 3 per cent import share collectively account for not more than 9 per cent of total imports of the product concerned into the customs territory of the Republic of Croatia.

## **II. PROCEDURE FOR IMPOSING SAFEGUARD MEASURES**

### **Investigation**

#### *Article 4*

An investigation shall determine serious injury that has been caused or the threat of serious injury to domestic industry, as a result of increased imports into the customs territory of the Republic of Croatia.

The facts and evidence, which are evaluated in an investigation, shall be in particular:

- the rate and amount of increased imports of the product concerned in absolute or relative quantities and values in relation to domestic production and consumption.

- the price of the imported product, especially where there has been a major reduction in price in comparison with the price of the like directly competitive product.
- effects on domestic industry shown in the trends of such economic indicators as:
- a change in the share on the domestic market based on increased imports,
- a change in the level of sales, production, productivity, capacity utilization, profits and losses status and the impact of increased imports on employment in a particular production sector,
- the impact of imports on the domestic market supply and on an increased level of dependence on imports,
- a reduction in prices of a like domestic or directly competitive product or the prevention of price rises which would normally have taken place,
- increased stocks of imported products on the domestic market.

The facts and evidence under paragraph 2 of this Article have to indicate a direct causal link between increased imports and the effect on the domestic industry.

If other factors exist that are affecting domestic industry, such as technological changes and changes in consumer preferences, these shall not be deemed to be a cause of serious injury or threat of serious injury in the sense of this Decree.

### **Proposal to initiate an investigation**

#### *Article 5*

A proposal to initiate an investigation (hereinafter proposal) shall be submitted to the Ministry of Economy (hereinafter the Ministry), by the producers under paragraph 1 of Article 2 of this Decree.

The proposal to initiate an investigation may not be submitted by producers commercially or otherwise linked with importers or exporters or if they are themselves the importers of the product concerned.

The proposal shall be filed in writing and it shall contain the following data:

- the description of the product being imported in increased quantities, with tariff number (at 8 or 10 digits level) and the description in accordance with the regulations on customs tariff;
- the name and the address of producer, exporter or importer of the product concerned;
- data under paragraphs 2 and 3 of Article 4 under this Decree;

In the event of a threat of a serious injury, in addition to data under paragraph 2 of this Article, the proposal shall contain the evidence of the possibility of a further increase in imports, considering volume and dynamism, based on:

- sales agreements,

- public tenders,
- bidding offers,
- increased export capacity of the exporting country.

### **Initiation of an investigation**

#### *Article 6*

Within the period of fifteen days from the receipt of a proposal for the initiation of an investigation, the Ministry shall examine whether the proposal was submitted in accordance with Article 5 of this Decree.

If the proposal is incomplete, the Ministry shall invite the applicant to complete or correct it within the period of fifteen days.

The investigation shall not be initiated:

- if an applicant does not complete or correct the proposal, on the invitation by the Ministry, within the period concerned,
- if an applicant withdraws the proposal prior to a decision on the initiation of an investigation,
- if the proposal to initiate an investigation was submitted by a unauthorized producer in accordance with Article 5 of this Decree.

If an applicant withdraws the proposal after the investigation was initiated, the Ministry shall adopt a decision to cease the investigation.

On the basis of an incomplete proposal received from an authorized applicant, the Ministry may adopt a decision to initiate an investigation or to postpone the adoption of the decision to initiate an investigation for an indefinite period until it receives the complete proposal.

#### *Article 7*

The decision to initiate an investigation shall be published in the "Official Gazette" and it shall contain:

- the date of the initiation of an investigation,
- the data on the product under investigation,
- a summary of the proposal for the initiation of an investigation,
- the list of exporting countries of the product that the investigation is related to, and
- the period within which the interested parties may communicate their standpoints, opinions and written evidence and the period within which they may request verbal hearings.

The interested parties shall communicate their standpoints and submit evidence within the period of fifteen days at least from the publication of the Decision in the "Official Gazette".

*Article 8*

Interested parties may, within the periods defined in Article 7 of this Decree, communicate their standpoints, opinions and submit evidence on the necessity of imposing safeguard measures.

If an interested party submits untruthful data or if the data are submitted after the expiry of the periods defined in Article 7 of this Decree, such data shall not be considered and other accessible data shall be used.

*Article 9*

On the basis of data and evidence gathered in an investigation, the Ministry shall prepare a report containing findings on actual situation in the domestic industry, in particular, whether the increased imports cause or threaten to cause serious injury to the domestic industry and the proposal of the necessity to impose safeguard measures.

The Ministry shall submit the report under paragraph 1 of this Article to the Government of the Republic of Croatia (hereinafter: Government)

*Article 10*

The Government shall adopt a Decision on the imposition of safeguard measures on the basis of the report under Article 9 of this Decree.

The Decision on the imposition of safeguard measures shall be published in the "Official Gazette" and it will contain:

- data on goods subject to investigation,
- findings on actual situation in the domestic industry, in particular, whether the increased imports cause or threaten to cause serious injury to the domestic industry,
- proposal of the type of safeguard measure and its level of safeguard measure if it is the case of an increase of the rate of customs duty or the manner of allocating quota in case of quantitative restrictions,
- duration of safeguard measure, as well as the manner of its progressive liberalization during the period of its application.

The safeguard measure shall not be applied to goods already on route to the customs territory of the Republic of Croatia, on the condition that the final destination of these products can no longer be changed.

The Government shall not adopt the Decision on the imposition of safeguard measure if it is not evident from the report containing findings that the imports of goods under investigation have not caused serious injury or if there is not threat of serious injury to the domestic industry.

The Ministry shall adopt a Decision to cease the investigation in cases defined in paragraph 4 of this Article, which shall be published in the "Official Gazette".

### **III. SAFEGUARD MEASURES**

#### *Article 11*

Safeguard measures in the sense of this Decree shall be adopted in to form of increased rate of customs duty or quantitative restriction of imports of a specific product (hereinafter: quota).

If a safeguard measure has been adopted in the form of a quota, the volume of this quota for a product may not be set under the average annual level of imports of that product in the last three-year period, except in case when it is necessary to prevent or remedy serious injury.

Within the quota defined in paragraph 2 of this Article, in cases in which a quota is allocated among supplying countries, the Government may agree with World Trade Organization members having a substantial interest in supplying the product to the customs territory of the Republic of Croatia on the method of allocating shares in the quota. In cases in which this method is not practicable, the determined quota shall be allotted based on the proportions of exporting countries in the total quantity of imports of the product into the Republic of Croatia during a representative period, due account being taken of any special factors which may have affected or may be affecting the trade in the product.

#### **Duration of safeguard measures**

#### *Article 12*

The duration of safeguard measure shall be set only for such a period of time as it is necessary to remedy the serious injury or as it is necessary for the domestic industry to adjust. This period shall not exceed four years from the date of imposition of safeguard measure.

If the duration of a safeguard measure is estimated to exceed one year, it shall be progressively liberalized at regular intervals during the period of application.

If the duration of the safeguard measure exceeds three years, not later than eighteen months from the application of the measure, the Ministry shall review the measure and estimate if it is necessary to continue with the application or to alleviate the measure.

The Ministry shall propose to the Government to abolish the safeguard measure, or to alleviate the measure, if, on the basis of the data gathered, the Ministry finds that there are no reasons for the continued application of the safeguard measure.

#### **Extending of the application of safeguard measure**

#### *Article 13*

A safeguard measure may, for well-founded reasons, based on the proposal of producers under paragraph 1 Article 5 of the Decree, be extended for a further period of four years.

The proposal for extending the application of a safeguard measure shall not be filed earlier than three months after the imposition of the safeguard measure, and not later than six months prior to the date of termination of such a measure.

An extension is possible if the Ministry conducts a new investigation in accordance with Article 5 of this Decree and determines that the application of the safeguard measure is still justified in order to prevent or remedy serious injury for the domestic industry.

The safeguard measure, which is extended in accordance with paragraph 1 of this Article, shall not be more restrictive than the safeguard measure previously applied.

### **Renewed imposition of safeguard measure**

#### *Article 14*

The Government shall not provide for the renewed imposition of a safeguard measure for the same product. Exceptionally, the measures shall be imposed on the product concerned only after the expiry of the period equal to that during which such a measure had been previously applied, provided that the period of non-application is at least two years.

Exceptionally, the Government shall impose the measures again for the duration of 180 days or less, if at least one year period elapsed from the imposition of previous measures, and if the safeguard measures has not been applied on the same product more than twice in a five year period.

### **Provisional safeguard measures**

#### *Article 15*

The proposal for the imposition of a provisional safeguard measure shall be filed to the Ministry by producers under paragraph 1 Article 5 of this Decree.

Where delay of the imposition of safeguard measures would cause damage to the domestic industry that would be difficult to repair, on the proposal of the Ministry, the Government may take a provisional safeguard measure, if on the basis of clear evidence it determined that increased imports have caused or threatened to cause serious injury to the domestic industry.

The Government may impose a provisional safeguard measure in the form of tariff increases.

The duration of the provisional measure shall not exceed 200 days. The duration of any such provisional safeguard measure shall be counted as a part of the initial period of the final safeguard measure or its extension if it would be imposed.

Provisional safeguard measure may not be extended.

#### *Article 16*

The Government's Decision on the imposition of the provisional safeguard measure under paragraph 2 Article 15 of this Decree shall be published in the "Official Gazette" and it shall contain:

- a description of the product with its tariff number ( at 8 or 10 digits level) for which the safeguard measure is imposed;
- the duration of the safeguard measure;
- the manner and conditions of the application of the safeguard measure.

A provisional safeguard measure shall not apply to products, which are already en route to the customs territory of the Republic of Croatia, on the condition that the final destination of these products cannot be changed any longer.

#### *Article 17*

If in a later investigation conducted in accordance with Article 5 of this Decree it is found that there is no serious injury or threat of serious injury to the domestic industry, the Government shall, on the proposal of the Ministry, adopt a decision to terminate the validity of the provisional safeguard measure.

In the case under paragraph 1 of this Article, the tariff increases that have been paid on the basis of a provisional safeguard measure shall be refunded. The person eligible shall enclose with a written request to the Ministry of Finance-Customs Administration, the original proof of payment of customs duty and the document on the basis of which the product was dutiable.

The additional customs duty paid shall ex officio be reconciled with the due current debt owed by the eligible person resulting from import duties. If the eligible person has no such debt, the Ministry of Finance-Customs Administration shall refund additional customs duty paid within a period of 30 days from the day of issuing of the decision to refund.

No interest shall be calculated for the customs duty that was additionally paid under paragraph 2 of this Article.

### **IV. PROTECTION OF CONFIDENTIAL INFORMATION**

#### *Article 18*

Information acquired by the Ministry for the implementation of this Decree shall be used only for the needs of investigation for the imposition of safeguard measures, pursuant to this Decree.

Each interested party may designate as confidential the information that they submitted to the Ministry during an investigation.

### **V. FINAL PROVISION**

#### *Article 19*

This Decree shall enter into force on the eight day of its publication in the "Official Gazette".

---