

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

**ESTONIA**

The following communication, dated 9 January 2001, has been received from the Permanent Mission of Estonia.

With reference to Article 12.6 of the Agreement on Safeguards, the Republic of Estonia has the honour to submit the national legislation of the Republic of Estonia relevant to safeguard measures. The Rural Development and Agricultural Market Regulation Act, passed on 11 October 2000, contains in chapter 8 regulations regarding safeguard measures in the agricultural market. The unofficial translated text of the aforementioned chapter is annexed hereto.

**Rural Development and Agricultural Market Regulation Act**

Passed on 11 October 2000  
Entered into force 1 January 2001  
Published in *Riigi Teataja* (State Gazette) I, 2000, 82, 526

Chapter 8

Safeguard Measures in Agricultural Market

Division 1

General Provisions

§ 120. Bases for application of safeguard measures

1. Safeguard measures may be applied in the agricultural market if, as a result of an investigation carried out on the basis of this Act, it is determined that agricultural produce or products are being imported into Estonia under such conditions as to cause or threaten to cause serious injury to the domestic industry which produces like or directly competitive products.

2. For the purposes of this Act, domestic industry means Estonian agricultural producers or processors of agricultural produce whose collective output of like or directly competitive agricultural produce or products constitutes a major proportion of the total domestic production of such produce or products.

3. For the purposes of this Act, serious injury means an overall impairment in the position of a domestic industry.

#### § 121. Comparison of products

1. In order to decide on the application of safeguard measures in the agricultural market, domestic agricultural produce or products shall be compared to the like or directly competitive imported agricultural produce or products.

2. For the purposes of this Act, agricultural produce or products are deemed to be like if their similar characteristics and composition allow them to be used for the same purpose and are deemed to be directly competitive if they are interchangeable.

3. For the purposes of this Act, import means the importation of agricultural produce or products into the Estonian customs territory under the customs procedure "import for free circulation" provided for in the Customs Act (RT I 1998, 3, 54; 1999, 86, 782; 97, 859; 102, 907).

#### § 122. Principle of application of safeguard measures

Safeguard measures shall be applied to agricultural produce or an agricultural product concerned being imported irrespective of its source, except in the cases provided for in § 140 of this Act.

### Division 2

#### Investigation Procedure

#### § 123. Obligation to conduct investigation

An investigation shall be conducted in order to determine whether the import of the agricultural produce or product concerned in increased quantities has caused or threatens to cause serious injury to a domestic industry.

#### § 124. Committee on Safeguards

1. On the proposal of the Minister of Agriculture, the Government of the Republic shall form an inter-ministerial committee on safeguards (hereinafter committee). The principal function of the committee is to determine if there is a need for safeguard measures to be applied and, in each specific case, to determine the appropriate safeguard measure to be applied. The committee has right to obtain information from state and local government agencies and from domestic agricultural producers and domestic processors of agricultural produce.

2. The Government of the Republic shall determine the functions and rules of procedure of the committee and the procedure for the financing of the committee and for the submission of conclusions and proposals by the committee upon the foundation of the committee. Services shall be provided to the committee by the Ministry of Agriculture.

#### § 125. Filing of petitions

1. A petition to commence an investigation for the application of safeguard measures may be filed by an agricultural producer, a processor of agricultural produce or a non-profit association

representing the agricultural producer or processor of agricultural produce. The petition shall be filed with the committee and the Ministry of Agriculture.

2. A petition and documents annexed thereto shall contain the necessary information concerning an import and the circumstances of the production and processing of domestic agricultural produce. The petition shall confirm the allegation that the import of the agricultural produce or product concerned in increased quantities has caused or threatens to cause serious injury to a domestic industry.

3. The list of information and documents certifying the information to be submitted for the commencement of an investigation to determine if there is a need for safeguard measures to be applied shall be established by the Government of the Republic.

#### § 126. Commencement of investigation

1. The committee shall examine a filed petition and the documents annexed thereto and decide to commence an investigation or deny the petition within fifteen working days as of the receipt of the petition. A notice concerning the decision to commence investigation or deny the petition shall be published in the official publication *Ametlikud Teadaanded*.

2. The date on which a relevant notice is published in the official publication *Ametlikud Teadaanded* is deemed to be the time of commencement of the investigation. The list of information to be published in the notice shall be established by the Government of the Republic.

3. The committee shall give the petitioner written notice of the commencement of the investigation within three working days as of the decision being made to commence investigation.

4. If the committee finds that the filed petition is not substantiated by the domestic industry, that the petition and documents annexed thereto do not contain sufficient evidence to commence investigation, or that the petition does not include all the information prescribed by and on the basis of this Act, and if the petitioner does not eliminate the deficiencies by the prescribed due date after the committee has made such a demand, the committee shall deny the petition and notify the petitioner thereof in writing within three working days as of the decision being made.

#### § 127. Organization of investigation

1. The committee shall organize an investigation to determine if there is a need for safeguard measures to be applied and the investigation may last for up to two months as of the receipt of the relevant petition. In exceptional cases, the committee may extend the investigation by one further month, in which case the committee shall announce the extension in the official publication *Ametlikud Teadaanded*. The petitioner shall be given written notice of the decision to extend the term within three working days as of the decision being made.

2. Any information submitted to the committee which contains a business secret or information which is by nature confidential or which is provided on a confidential basis may be used only for investigation purposes. Such information shall not be disclosed without the permission of the party submitting it.

3. Parties providing confidential information specified in subsection (2) of this section shall be requested to furnish non-confidential summaries thereof. If the parties indicate that such information cannot be summarized, the reasons why a summary cannot be provided shall be furnished.

4. If the committee finds that a request for confidentiality is not warranted and if the party concerned is either unwilling to make the information public or to authorize its disclosure in generalized or summary form, the committee may disregard such information in determining serious injury or a threat thereof unless it can be demonstrated to their satisfaction with other documents or from any other appropriate sources that the information is correct.

§ 128. Transparency of investigation

The committee shall organize the investigation in a manner which enables all interested parties to obtain relevant information concerning the investigation. The committee shall organize public hearings in which importers, exporters and other interested parties could present evidence and their views, including the opportunity to respond to relevant questions and submit their views as to whether or not the application of a safeguard measure would be in the public interest.

§ 129. Determination of significant injury or threat thereof

1. In the investigation to determine whether increased imports of the agricultural produce or product concerned have caused or are threatening to cause serious injury to a domestic industry, the committee shall assess and evaluate all relevant factors of an objective and quantifiable nature having a bearing on the situation of that industry, in particular:

- (1) the rate and amount of the increase in imports of the agricultural produce or product concerned in absolute and relative terms;
- (2) the share of the domestic market taken by increased imports of the product concerned;
- (3) the effect of imports on the domestic industry, taking into consideration the following economic factors: changes in the level of sales, production, productivity, capacity utilization, profits and losses, and employment;
- (4) the presumed reasons for the increase in imports, such as the price, quality and conditions of sale of the agricultural produce or product, and demand for domestically produced goods.

2. The determination that increased imports of the agricultural produce or product concerned have caused or to are threatening to cause serious injury to a domestic industry shall not be made unless the investigation demonstrates, on the basis of objective evidence, the existence of a causal link between increased imports of the agricultural produce or product concerned and serious injury or threat thereof. When factors other than increased imports are causing injury to the domestic industry at the same time, such injury shall not be attributed to increased imports.

3. The committee shall terminate its investigation if it becomes evident that no serious injury has been caused or if the injury or threat thereof is not caused by increased imports of the agricultural produce or product concerned.

### Division 3

#### Procedure for Application of Safeguard Measures

##### § 130. Initiation of procedure for application of safeguard measures

1. The committee shall prepare a report on the basis of the investigation results in which the committee explains whether increased imports of the agricultural produce or product concerned have caused or are threatening to cause serious injury to a domestic industry. The list of information to be submitted in the report shall be established by the Government of the Republic.
2. If, in the course its investigation, the committee finds that sufficient grounds exist for the application of safeguard measures, the committee shall initiate the procedure for the application of safeguard measures. In such case, the committee shall include in the report detailed justification of the need to apply safeguard measures on the basis of the results and justified conclusions of the investigation and in the public interest.
3. The committee shall submit the report with the investigation results to the Government of the Republic through the Minister of Agriculture and publish a summary of the report in the official publication *Ametlikud Teadaanded*.

##### § 131. Safeguard measures to be applied

1. The application of safeguard measures and the safeguard measures to be applied shall be prescribed by Acts.
2. For the purposes of this Act, safeguard measures means the application or increase of customs duty, or other measures the application of which is not contrary to international agreements.
3. Customs duty shall be increased on the basis of and pursuant to the procedure provided for in the Most Favoured Nation Customs Duty Act (RT I 1999, 93, 832) by raising the rate of customs duty on agricultural produce and products subject to customs duty and by imposing a customs duty on other agricultural produce and products.
4. Safeguard measures shall be applied only for the period of time and to the extent which is necessary to prevent or remedy serious injury and to facilitate the adjustment of the domestic market.

##### § 132. Provisional safeguard measures

1. The committee has the right, prior to the expiry of the term for an investigation to determine if there is a need for safeguard measures to be applied, to make a proposal to the temporary application of safeguard measures if the committee finds clear evidence that increased imports of the agricultural produce or product concerned have caused or are threatening to cause serious injury or if critical circumstances arise in the agricultural market whereby any delay in the application of safeguard measures would cause injury to a domestic industry which would be difficult to repair.
2. The committee shall notify the Government of the Republic of the proposal specified in subsection (1) of this section through the Minister of Agriculture and publish a notice concerning the proposal in the official publication *Ametlikud Teadaanded*.
3. The Riigikogu shall decide on the application of provisional safeguard measures. If the rate of customs duty on agricultural produce and products subject to customs duty on the basis of and pursuant to the procedure provided for in the Most Favoured Nation Customs Duty Act is increased

by up to two times as a provisional safeguard measure, the Government of the Republic shall decide on the application of provisional safeguard measures.

#### § 133. Application of provisional safeguard measures

The imposition of a customs duty or the increase of the rate of customs duty are provisional safeguard measures. The duration of provisional measures shall not exceed 200 days. During such period, the committee shall continue the investigation and the procedure for the application of safeguard measures.

#### § 134. Refund of customs duty

Customs duty collected as a provisional safeguard measure shall be promptly refunded if the investigation does not determine that increased imports of the agricultural produce or product concerned have caused or threatened to cause serious injury to a domestic industry.

#### § 135. Notification

1. The World Trade Organization Committee on Safeguards and the Association Council founded on the basis of Article 109 of the Association Agreement between the Council of the European Communities and their Member States and the Republic of Estonia (Europe Agreement) (RT II 1995, 22-27, 120) shall be immediately notified of any decision to initiate an investigatory process, any report on investigation results, and the application of provisional safeguard measures. If notification is prescribed in a free trade agreement, the joint committee established on the basis of the free trade agreement shall be notified of the decision to commence investigation.

2. If an investigation is commenced to determine if there is a need for safeguard measures to be applied, the Government of the Republic shall commence consultations and negotiations with states whose commercial interests may be affected by the application of such safeguard measures, pursuant to Article 8 and paragraph 3 of Article 12 of the World Trade Organization Agreement on Safeguards (RT II 1999, 22, 123) and Articles 20, 29 and 32 of the Europe Agreement.

### Division 4

#### Duration of Safeguard Measures

#### § 136. Duration of application of safeguard measures

1. The duration of the application of safeguard measures shall not exceed four years unless the term is extended as a result of a new investigation.

2. The term specified in subsection (1) of this section may be extended provided that it is determined in the course of an investigation that the safeguard measure continues to be necessary to prevent or remedy serious injury and that there is evidence that the industry concerned is adjusting. New safeguard measures shall not be more restrictive than the provisional safeguard measures were at the end of their application.

3. If the expected duration of safeguard measures exceeds one year, the measures shall be progressively liberalized at regular intervals. If the duration of safeguard measures exceeds three years, the situation shall be reviewed not later than at the mid-term of the measures and, if appropriate, the measures shall then be withdrawn or the pace of liberalization increased.

§ 137. Liberalization and withdrawal of safeguard measures

If the committee finds that the reasons for the application of safeguard measures have changed or no longer exist, the committee shall make a proposal to the Government of the Republic through the Minister of Agriculture to liberalize or withdraw the safeguard measures.

§ 138. Total period of application of safeguard measures

The total period of application of safeguard measures, including the application of any provisional measures and the extension of the period of initial application, shall not exceed eight years.

§ 139. Repeated application of safeguard measures

1. No safeguard measures shall be applied again to agricultural produce or an agricultural product which has been subject to such measures for a period of time equal to that during which such measures had been previously applied, provided that the period of non-application is at least two years.

2. Safeguard measures with a duration of 180 days or less may be applied again if at least one year has elapsed since the withdrawal of the safeguard measures against the agricultural produce or product concerned and if such safeguard measures have not been applied more than twice in the five-year period immediately following the initial introduction of the measure.

§ 140. Exceptions to application of safeguard measures

1. Safeguard measures shall not be applied against agricultural produce or an agricultural product originating in a developing country which is a member of the World Trade Organization as long as its share of imports of the agricultural produce or product concerned does not exceed 3 per cent of total imports of the agricultural produce or product concerned.

2. Safeguard measures may be applied against agricultural produce or products specified in subsection (1) of this section if the developing countries collectively account for more than 9 per cent of the total imports of the agricultural produce or products concerned.

3. If safeguard measures are not applied on the basis of this section against agricultural produce or products imported from developing countries, the World Trade Organization Committee on Safeguards and the Association Council shall be promptly informed thereof.

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