

**The Draft Law is tabled
by the People's Deputy of Ukraine
Osyka S. G. (Electoral Constituency 96)**

THE LAW OF UKRAINE

On Introducing Amendments to the Law of Ukraine *On Application of Special Measures in Respect of Imports to Ukraine* (concerning procedural matters of special investigations and application of special measures)

The Supreme Rada of Ukraine *resolves*:

I. To introduce to the Law of Ukraine *On Application of Special Measures in Respect of Imports to Ukraine* (Vidomosti Verkhovnoyi Rady Ukrayiny, 1999, # 11, p. 78; 2003, # 26, p. 193, # 37, p. 300) the following amendments:

1) In Preamble to the Law, substitute the words “irrespective of the commodity’s country of origin and exporting country” for the words “from other countries, customs unions, or economic groupings”;

2) In Article 1:

Complement Clause 4 after paragraph six with a new paragraph reading:

“consumers, associations of consumers”.

In this connection, paragraph seven shall be deemed paragraph eight;

Clause 12 shall read:

“12) Period of investigation: the period during which the Ministry investigates growth dynamics of volumes of imports of commodity that is the object of investigation, and the production, commercial, and financial status of the domestic commodity producer”;

3) Part one of Article 2 shall read:

“1. This Law is valid for transactions related to imports of any commodity irrespective of the commodity’s country of origin and exporting country”;

4) In Article 7:

In paragraph two of Part one, substitute words “in a month’s time” for the words “on the tenth day”;

Supplement Part two after paragraph five with new paragraphs reading:

“At the Commission’s sessions, decisions shall be adopted on the following matters:

On instituting, or refusing to institute, special investigation of imports of the commodity;

On applying preliminary special measures in respect of the imports of the commodity that are the object of investigation;

On applying measures of monitoring the imports of the commodity that are the object of investigation;

On applying special measures in respect of the imports of the commodity that are the object of investigation;

On discontinuing special investigation without application of special measures;

On alleviating special measures in respect of the imports of the commodity;

On review of special measures in respect of the imports of the commodity;

On canceling special measures in respect of the imports of the commodity;

Other decisions in execution of this Law”.

In this connection, paragraph six shall be deemed paragraph sixteen;

5) Part two of Article 8 shall read:

“2. Period of investigation shall amount, as a rule, to one to three years. In individual cases, the period may exceed three years.

The duration of the period of investigation shall be determined by the Ministry”;

6) In Part two of Article 9:

In paragraph one, delete the words “within five days from the date of adoption by the Commission of the decision referred to in Part one of this Article”;

Delete Clause 3;

7) Delete second sentence in paragraph three of Part three in Article 10;

8) In Part one of Article 11:

Clause 4 shall read:

“4) The Ministry tentatively established that there could arise such circumstances under which any delay in application of preliminary special measures may cause harm the consequences of which will be hard to remedy afterwards”;

Delete the word “considerable” in Clause 5;

9) In Part two of Article 13:

Complement the second sentence of Clause 3 after the words “(that is, the reduction of prices or hindrance of the increase of prices which, as a rule, took shape)” with words “labor productivity; utilization of fixed assets”, and after the words “size of profit”, with words “or losses”;

Add a paragraph to this Part reading:

“In case where, apart from the growth of imports, simultaneously other factors exist that significantly harm the domestic commodity producer, the growth of imports shall not be recognized as the cause of such significant harm”;

10) Part seven of Article 14 shall read:

“7. The term for application of monitoring measures shall be limited and shall not exceed the period set for the conduct of the special investigation”;

11) In Clause 1 of Part four in Article 15, delete the words “the commodity price at which the transaction is realized, exceeds the price indicated in the imports permit, by more than five percent, or”;

12) In Article 16:

Delete Clause 1 of Part one;

In paragraph three of Part three, delete the words “name of exporting country”;

Part six shall read:

“6. In case of absence of sound justification of the need to fix a different level to prevent or remedy the consequences of a substantial harm, the limiting value of the quota shall not be inferior to the arithmetical mean volume of the commodity imports during the last three years of commodity imports that are the object of the special investigation”;

Complement the Article after Part nine with the new Part reading:

“10. In the process of investigation, the Commission may adopt a decision to discontinue the special investigation without applying special measures. Such decision shall be adopted by majority of votes in the Commission upon submission by the Ministry of conclusions and report on results of the conduct of the special investigation”.

In this connection, Parts ten and eleven shall be deemed Parts eleven and twelve, respectively;

Complement Part eleven after the words “on the Commission’s assignment” with the words “shall publish in a newspaper the appropriate announcement and ”;

13) In Article 18:

Part one shall read:

“1. Special measures shall be applied during a period necessary for the prevention or elimination of consequences of the substantial harm and for the facilitation of the process of the domestic commodity producer’s economic adaptation to conditions of competition. The period may not exceed four years unless it was extended in case where the Commission discovered the existence of circumstances listed in Part two of this Article”;

Paragraphs two and three shall read:

“the need continues to exist in application of measures to prevent or eliminate the consequences of the substantial harm;

Evidence has been revealed of the interested domestic commodity producer being in the process of adaptation to conditions of competition”;

Part four shall read:

“4. In case where the period of application of special measures exceeds one year, such measures must be gradually alleviated over regular (equal) periods of time during the entire period of application thereof”;

14) In Part one of Article 19:

Delete paragraph two;

Add to the Part paragraphs reading:

“in case where the period of application of special measures exceeds three years, such measures must be alleviated not later than upon expiry of half this period. If possible, the special measures shall be called off, or the pace of alleviating such measures must be accelerated.

Measures the period of application of which has been extended in accordance with provisions in Part two of Article 18 of the Law, must not be more restrictive than what such measures were at the end of the preliminary period, and must be further alleviated”.

II. This Law shall come into force from the day of publication.

V. Lytvyn,

Chairman, the Supreme Rada of Ukraine