

WORLD TRADE ORGANIZATION

G/SG/N/1/MKD/1/Suppl.1
28 June 2005

(05-2765)

Committee on Safeguards

Original: English

NOTIFICATION OF LAWS AND REGULATIONS UNDER ARTICLE 12.6 OF THE AGREEMENT

FORMER YUGOSLAV REPUBLIC OF MACEDONIA

Supplement

The following communication, dated 8 June 2005, is being circulated at the request of the Delegation of the Former Yugoslav Republic of Macedonia.

With reference to Article 12.6 of the Agreement on Safeguards, the Government of the Republic of Macedonia submits the Decision on Procedure and Method of Determining Safeguard Measures against Increased Imports relevant to the Agreement. The Decision was published in the Official Gazette No. 28/2005 and entered into force as of 29 May 2005. An unofficial translation of the Decision is enclosed.

Pursuant to Article 37 paragraph 8 of the Law on Trade (Official Gazette 16/2004) and Article 36 paragraph 3 of the Law on the Government of the Republic of Macedonia (Official Gazette 59/2000 and 12/2003), the Government of the Republic of Macedonia on its session held on 25 April 2005 has adopted

**Decision on Procedure and Method of Determining
Safeguard Measures against Increased Imports**

I. GENERAL PROVISION

Article 1

The Decision sets up the procedure and the method of determining safeguard measures against increased imports.

Serious Injury

Article 2

The determination whether increased imports of the investigated product have caused or are threatening to cause serious injury to a domestic industry, shall evaluate all relevant factors of an objective and quantifiable nature, having a bearing on the situation of that industry, in particular of:

- (a) the rate and the amount of the increase in imports of the investigated product in absolute and relative terms to domestic production or consumption of a like or directly competitive product;
- (b) the price of imported product, in particular where there has been a significant price undercutting as compared on domestic like or directly competitive products;
- (c) the consequent impact on the domestic industry as indicated by trends in certain economic factors such as:
 - the share of the domestic market taken by increased imports;
 - depression of the prices or prevention of price increases which would normally have occurred; and
 - changes in the level of sales, production, capacity utilization, stocks, profits and losses and employment.

Threat of Serious Injury

Article 3

The determination of a threat of a serious injury caused by increased imports shall be based on facts and not merely on allegation or probability.

In considering whether increased imports threaten to cause serious injury to domestic industry, in addition to the factors cited in Article 2 of this Decision, the following should be taken into consideration:

- (a) the actual and potential export capacity of the country of export or origin;
- (b) inventories in the Republic of Macedonia or countries of exportation; and
- (c) the probability that exports of the investigated product will enter into Macedonian market in increased quantities.

II. INVESTIGATION

Initiation of Procedure

Article 4

An investigation procedure may be initiated upon request for the imposition of a safeguard measure (hereinafter: request) by or on behalf of a domestic industry or on the initiative of the Commission on Protective Measures against Increased and Subsidized Imports (hereinafter: the Commission).

The request shall be addressed to the Commission in a written form.

Requirements for a Request

Article 5

The request should contain:

- (a) Description of the imported product, identification of its tariff classification (8 or 10 digits) and description in accordance with Custom Tariff Regulation;
- (b) The names and addresses of the producer, exporter and importer of the imported product;
- (c) The data included in Article 2 of this Decision.

With respect to threat of serious injury, the request, in addition to the evidences cited in paragraph 1 of this Article, should contain the evidences pursuant to Article 3 of this Decision.

Withdrawal of the Request

Article 6

Any request under Article 4 of this Decision, may be withdrawn prior to initiation and during the procedure, in which the Commission shall stop the investigation procedure.

Initiation of Investigation

Article 7

Where a request has been received, the Commission shall, within 15 days of the date of receipt, examine whether it is in accordance with Article 5 of this Decision. When the request involves complex issues, that require additional information, this period may be extended to 30 days.

If the request is not completed, the Commission shall require, within 15 days from the date of receipt, additional information or corrections by the applicant.

Where it is apparent to the Commission that there is sufficient evidence for serious injury and threat of serious injury, the Commission shall decide to initiate an investigation.

The notice of paragraph 3 of this Article shall be published in the “Official Gazette of the Republic of Macedonia”.

Article 8

Contents of the Notice

The notice referred to in paragraph 7 of this Decision shall include the following information:

- (a) the date of the initiation of investigation;
- (b) description of the imported product under investigation;
- (c) the exporting countries of the product under investigation;
- (d) a summary of the information on which the allegations of increased imports and serious injury or threat thereof are based;
- (e) the period within which interested party may make known their views in writing and submit information; the period within which interested parties may apply to be heard orally by the Commission in accordance with Article 12 of this Decision.

Deadlines

Article 9

The deadlines, referred to in paragraph (e) of Article 8 of this Decision, established by the Commission, shall provide sufficient opportunities for interested parties to make their views known and submit evidences on the matters concerning imposition of safeguard measures.

If interested parties submit incorrect information or, if the submissions are made after the deadlines referred to in paragraph (e) of Article (8) of this Decision, such submissions shall not be taken into consideration, and only the available evidences shall be used.

The Commission Powers

Article 10

The Commission may request directly from the participating interested parties, the Customs Administration, the inspection authorities, forwarders, and other entities such data and information as it considers relevant to the performance of the investigation.

The bodies referred to in paragraph 1 of this Article, shall provide requested information within the time-limits allowed by the Commission.

Arguments

Article 11

All interested parties which have come forward may communicate their views on the information in question to the Commission. Those views may be taken into consideration where they are backed by sufficient evidence.

Hearings

Article 12

The Commissions may hear the interested parties where they have made written application within the period laid down in the notice of paragraph (e) of Article 8 of this Decision, showing that they are actually likely to be affected by the outcome of the investigation and that there are special reasons for them to be heard orally.

III. APPLICATION OF SAFEGUARD MEASURES

Notice Regarding Provisional Safeguard Measures

Article 13

The Decision of the Government of the Republic of Macedonia on imposition of provisional safeguard measure shall be published in the "Official Gazette of the Republic of Macedonia and shall include the following information:

- (a) description of the imported product and customs tariff identification (8 or 10 digit);
- (b) the amount of tariff increase proposed as the provisional safeguard measure; and
- (c) the intended duration of the provisional safeguard measure.

Determination of Serious Injury or Threat Thereof

Article 14

The Commission shall submit a report containing findings on the situation in the domestic industry, on the basis of the objective evidence obtained in the investigation, particularly whether increased imports have caused or threaten to cause serious injury to the domestic industry and proposal that safeguard measures are necessary to impose.

IV. SAFEGUARD MEASURES

General Principal

Article 15

The Commission may propose to the Government of the Republic of Macedonia, to impose safeguard measures where it determines that increased imports have caused or threaten to cause serious injury to the domestic industry.

A safeguard measure of paragraph 1 of this Article, shall be imposed in the form of either a tariff increase or a quantity or value quota on imports of a product in accordance with Article 38 paragraph 2 and Article 42 of the Law on Trade.

The duration and level of any such measure shall be no more than is necessary to prevent or remedy serious injury and to facilitate adjustment of the domestic industry.

Notice Regarding Safeguard Measures

Article 16

A Decision regarding the imposition of a safeguard measure by the Government of the Republic of Macedonia shall be published in the "Official Gazette of the Republic of Macedonia".

The Decision shall contain the following information:

- (a) description of the imported product and an identification of its tariff classification (8 or 10 digits);
- (b) information on the volume and value of the imported product for each of the three calendar years preceding the request for initiation of investigation, as well as more recent semi-annual data;
- (c) information relevant to the existence of serious injury or threat thereof to the domestic industry;
- (d) the form, level and duration of the proposed safeguard measure;
- (e) the date of application of the safeguard measure.

If a quantitative or value restriction on imports pursuant to Article 42 of the Law on Trade is proposed, the Decision must provide information, on the manner of its allocation.

If the proposed duration of the safeguard measure (including the period of application of any provisional safeguard measure) is more than one year, the Decision will have to provide a timetable for its progressive liberalization, as provided for in Article 39 of the Law on Trade.

V. FINAL PROVISIONS

Entry into Force

Article 17

This Decision shall enter into force the following day of its publication in the "Official Gazette of the Republic of Macedonia".
