

Law 42 of 2006

## Protection of National Production

Based upon the Constitution and upon the Peoples' Council approval at its session held on 19/10/2006,

The President of the republic issues the following:

### CHAPTER ONE Definitions

#### Article 1

In the context of applying the provisions of this Law, the following terms are hereby defined:

- Law: Law for the Protection of National Production from the Effects Resulting From Harmful Practices at International Trade
- Ministry: the Ministry of Economy and Trade
- Minister: the Minister of Economy and Trade
- Committee: Committee for anti-dumping, subsidies and precautionary measures stated in this Law.
- Harmful practices in international trade: increase in the volume of imports of a certain product as a result of a dumping or a subsidy that results in damages to local products, or threatens the same, hinders establishing industry or protecting a budding industry, or due to the unjustified increase in imports resulting in serious damages to local products, or threatening the same.
- Damage: one of the following two types:
  - a. Actual or potential Material damage to local producers or the material damage that hinders the establishment of a local industry as a result of dumping or subsidy.
  - b. Damages embodied by an actual or potential large negative impact on the local producers in case of unjustifiable increase in imports.
- Dumping: Sale of imported goods, similar to locally produced goods or of the same specifications, in Syria at a price less than their price at the exporting country markets, or lower than the total cost, consequently causing or threatening to damage or noticeably hindering the production of a similar product in Syria.
- Unlawful Subsidy: Any financial contribution, direct or indirect, provided by the country of origin government, or any public body thereof, that result in a benefit for the subsidy receiver, whether a producer, distributor, transporter, exporter or a combination thereof, and which could result in a material damage to the local product,

threatens to do so, or hinders the establishment of national industry or the development of a rising national industry.

- Unjustifiable increase in imports: Unjustifiable increase in the imports of a certain product to Syria, not resulting from dumping or subsidy, and at increasing quantities, whether absolute or proportional to the national production, and resulting in serious damages to similar or directly competing national products or threatening to do so.

- Anti-dumping measures: Procedures aiming at protecting a certain national product against dumping.

- Unlawful subsidies combating measures: Procedures aiming at protecting a certain national product against unlawful subsidies.

- Precautionary measures: Procedures aiming at protecting a certain national product against unjustified increase of imports.

- Local Producers: The local producers of the product similar to the imported one, or those who jointly produce 25% or more of the local production of this product.

- National Product: Industrial, agricultural or any other product or service.

- Similar Product: The national product that is similar in all aspects to the product imported to SAR, or greatly resembles it in its characteristics or uses, if not identically similar.

## CHAPTER TWO Objective:

### Article 2

The Law aims at handling international trade harmful practices to Syria for the following cases:

1- Dumping cases that cause or threatens to cause damages to the national product.

2- Cases of unlawful subsidies from other countries to their exports to Syria.

3- Damages resulting from unjustifiable increases in imports.

## CHAPTER THREE Anti-dumping Conditions and Procedure

### Article 3

The conditions that require anti-dumping are defined as follows:

1- Detecting dumping by reviewing export prices and sale prices at the country of export and the volume of imports.

2- Causing or threaten to cause material damages to the

national product that is embodied by receding production quantities, a reduction in sales or profits, increasing stocks or increasing unemployment.

3- The presence of a clear causative relationship between dumping and damages faced by the national production.

#### Article 4

Anti-dumping measures are defined as follows:

1- In case of dumping, dumping duties are levied on imports from the country of origin, duties that are proportional to the difference between the export price and the merchandise regular value.

2- The product's regular value is determined by identifying the price of the product at the country of origin local market, if the trade environment for producing the product is at its natural course without protection or subsidy. If this was not possible, then the determination of the merchandise regular price is done by its selling price at other countries or by calculating the exported product's cost plus profit margin.

3- Dumping duties remain enforced as far as the dumping practice continues.

### CHAPTER FOUR Conditions and Procedures of Compensation Measures against Subsidies

#### Article 5

The conditions that require compensation procedures against subsidies are defined as follows:

1- Confirmation of prohibited subsidizing cases.

2- Actual or threat of material damages to the national product manifested in receding productions, reduced sales or profits, increased stocks or increased unemployment.

3- The existence of a clear causative relationship between subsidies and the damages to the national production.

#### Article 6

The procedures for compensation measures against subsidy are defined as follows:

1- Compensation duties are imposed in case of prohibited subsidies according to the volume of subsidies.

2- The compensation fees become null and void five years after being imposed or last reviewed.

3- Cancellation or reduction of custom tariffs imposed on the imported pre-requisites that enter in the local product.

4- Any other arrangements that help local producers cope

with the competing imports; provided that these do not conflict with relevant international agreements.

### Prohibited Subsidy

#### Article 7

1- Subsidy is deemed prohibited in one of the following two cases:

A- If granting subsidy is dependent, according to the legislations in force or to status quo, on the export process, whether with the presence or absence of other granting conditions.

B- If granting subsidy is dependent on the condition of using local merchandise without imported merchandise, even if other conditions were attached.

2- Subsidy is dependent on export according the status quo, and if granting subsidy (with the absence of a legislation) is found to be related to actual or expected exports or export revenues.

3- The fact that a company or establishment receiving subsidies undertakes export activities is insufficient to prohibit subsidy.

### Assigning Subsidies

#### Article 8

1- Subsidy is deemed allocated if the granting government or legislation has exclusively restricted it to certain establishments or within a specific geographic area.

Establishment here means one establishment or a specific industrial sector or a group of establishments or industries.

2- The subsidy is not deemed allocated if granted according to subjective conditions set out by the granting authority or stipulated in its legislations to measure the right to receive subsidy and its amount, provided that granting subsidy be spontaneous upon meeting such conditions and criteria, and that they are well observed.

In the course of implementing this article, the subjective conditions and criteria shall be neutral and do not favor certain establishments, they shall also be economically based, fair and general during application in terms of the establishment size, number of staff or others.

#### Article 9

1- Subsidy means the benefit or financial support provided by the exporting country or any form of income subsidy or price subsidy that leads into benefiting the bodies or individuals undertaking production, distribution, transport, selling or exporting goods.



2- Any of the following forms of government financial contributions is deemed subsidy:

a- Any financing provided by the government, whether direct (grants or loans) or indirect (loan guarantees to other bodies).

b- Government waiver of due revenues whether by exoneration or non collection, Excepting the exporting producers partially or totally from duties or taxes on similar product when directed towards local consumption, or refunding such duties or taxes after export, provided that the returned amount should not exceed the amount actually collected.

c- When the government purchases or provides merchandise and services external to its function related to the provision of general infrastructure.

d- When the government performs the forms stated in the above-mentioned a, b and c items via granting funds to specialized financing establishments, or assigning a special body to handle the matters stipulated above.

Conditions and Procedures of Compensation Measures against Subsidy

Article 10

It is permitted to impose compensation fees on any imported product if the result of the investigation performed by the competent body, according to the Law provisions, confirms any of the following two cases:

1) The imported product enjoys subsidy as defined in Article 9 above.

a- The provided subsidy is assigned according to the concept contained in Article 8 above.

b- Imports of this product are causing damages to a similar product, according to the provisions of the Law and these instructions.

2) Or that the imported product benefits from prohibited subsidies according to the concept contained in Article 7 above.

Allowed Subsidy

Article 11

No compensation procedures are permitted against the following form of subsidy:

1- Subsidies granted to research activities performed by the companies, higher education institutes or research

establishments according to contracts signed with the companies, provided that the subsidy does not exceed 75% of the total industrial research costs or 50% of the total development costs prior to competition. The cost type definition and industrial research concept shall be defined by the Ministry.

2- Subsidy provided to unprivileged areas within the exporting country, within a general plan for regional development, provided that such assistance is not restricted to certain establishments at such areas.

Conditions and criteria for the classification of unprivileged areas are defined by the Ministry.

3- Subsidies provided to assist establishments cope with the environmental requirements imposed by relevant legislations, which lead to more restrictions and financial burdens on companies and establishments. Provided that the subsidy shall not exceed 20 % of the costs required to cope with environmental requirements, and that the establishment has been working for at least two years prior to imposing new environmental requirements.

Subsidy Volume

Article 12

1- The volume of subsidy is determined according to the benefit realized by subsidy receiver which is calculated at the investigated period.

2- The following rules are applied for calculating the benefit realized by the subsidy receiver:

a- The government's contribution in the capital of a company is not considered as a benefit to this company, unless the contribution is inconsistent with the familiar regular investment practices practiced by a private sector investor within the lands of the exporting country.

b- The provision of a loan by the government is not considered as a benefit for the loan receiver, unless with the existence of difference between the interest and any other expenses paid by the borrowing company on the government loan, and those expenses it would have had to pay for a similar commercial loan it might get according to market criteria. In this case the benefit is calculated according to the differences between the two amounts.

c- The government guarantee of a loan is not considered a benefit to the receiving company, unless there has been a difference between the amount paid by the

receiving company on the loan guaranteed by the government and the amount it would have had to pay for a similar commercial loan without a government guarantee. In this case the benefit is calculated according to the difference between both amounts, taking into account the fees paid by the company in both cases.

d- Provision or purchase of merchandise or services to/from the producers by the government is not considered a benefit, unless this provision is done with a compensation below market price, or a purchase higher than market price, taking into account the market conditions, the prevailing criteria such as quality, availability, marketing potentials, transport and purchase/sale conditions.

## CHAPTER FIVE Conditions and Procedures for Precautionary Measures

### Article 13

The conditions for precautionary measures are defined as below:

- 1- Having evidences and subjective proof of an unjustified increase in imports.
- 2- The existence or threat of material damages to the national product embodied by receding production, a decrease in sales or profits, or an increase in stocks or in unemployment rates resulting from the increase of imports.
- 3- The existence of a causative relationship between imports increase and the resulting or potential damages to the national production.

### Article 14

Procedures of precautionary measures are defined as follows:

- 1- Precautionary measures are applied by imposing restrictions on imports or imposing additional customs duties on imported goods or both.
- 2- These measures are applied as far as being enough to prevent or treat the damage faced by relevant national industry.
- 3- These measures shall be deemed valid for four years and can be extended up to 10 years.
- 4- No precautionary measure shall be applied on an imported merchandise on which a precautionary measures has been previously applied, unless after two years.

Causative Relationship

## Article 15

The competent body should ascertain that dumped imports or subsidized imports are, due to their effects, the reason behind the damage underwent/might be undergone by local producers, taking into consideration the presence of appreciable increase in dumped imports that receive subsidy, whether absolute or relative to consumption and production in the country and its effects on prices and the volume of dumping margin.

## Article 16

When evaluating the causative relationship, the competent body shall take into account any other factors besides the dumped or subsidized imports, that have caused or could cause damage, such as the volume of imports not yet sold at dumping or subsidized prices and other factors that affect local prices and decrease demand, in addition to the variations in consumption patterns, practices that control trade, competition between local and foreign produces, technology advances, export performance and the productivity of local producers.

## Article 17

The competent body might collect import effects, for the purposes of assessing damage, in regard to the imports of a product that comes from more than one country, in case the following has been proved:

- 1- Dumping margin relevant to imports from each country exceeds 2% of export price in case of dumping, and the volume of subsidy is at least 1% in case of subsidizing.
- 2- The volume of imports from each country is appreciable.
- 3- The accumulative evaluation of import effects is suited to competition conditions between imported products and similar local products.

## Material Hindrance of the Foundation of Local Industry

### Article 18

1- When determining the existence of material hindrance that delay finding local industry to produce similar goods, the competent body considers the following:

- a- The possibility to establish local industry within a reasonable time span.
  - b- Growth and continuation potentials of such industry.
- 2- The competent body shall take into account feasibility studies, the loans agreements signed/to be signed and machinery purchase contracts to establish new investment projects or expand existing factories.

## CHAPTER SIX Organizational Structure



## Article 19

The Minister defines the administration body or department at the Ministry that will perform the following functions:

- 1- Receive of applications in regards to the application of this Law
- 2- Study these applications and the extent to which they meet the stated conditions
- 3- Forward these applications to the committee
- 4- Issue and distribute resolutions of the committee to relevant bodies.
- 5- Follow up the implementation of Committee resolutions with the relevant bodies.
- 6- Spread awareness and develop knowledge regarding dumping, subsidy and precautionary protection concepts.
- 7- Participate in international relevant activities.
- 8- Form expert sub-committees.
- 9- Any other assignment as assigned by the Minister or the Committee regarding the implementation of this Law.

## Article 20

The Committee for Anti-dumping and Prevention of Subsidy and Safeguard is formed via a resolution by the Minister. It is headed by the Deputy Minister and includes as members representatives from the Ministries of: Finance, Industry, Agriculture and Agrarian Reform, Health, Federation of Chambers of Commerce, Federation of the Chambers of Agriculture, at the level not less than a director. Via resolution the Minister may add whoever he finds suitable to the Committee. The Committee shall be permitted to seek assistance from whoever it finds suitable to perform its functions.

## Article 21

The duties of the Committee are defined as follows:

- 1- Study the applications sent by the department.
- 2- Forward recommendations regarding applications to the Minister
- 3- Periodic review of the results of resolutions relevant to this Law

## CHAPTER SEVEN Damage Assessment

### Article 22

Evaluation of the effect of dumped, subsidized or unjustifiably increased imports on local producers is done based upon the information regarding production of the similar local product. If such information is not available, then the assessment will

be done based upon the information on the closest category of similar local products with available information.

#### Article 23

The department defines the actual material damages to local producers as a result of dumping, subsidy or unjustified increase in imports, based upon the study or investigation carried in this regard, and shall take into account the following:

1- The presence of appreciable increase in the volume of dumped, or subsidized imports, whether in absolute terms or in comparison to local production or consumption, and the effects of such dumped or subsidized imports on the prices of similar products in the local market, taking into consideration the following:

a- The dumped or subsidized products are sold at appreciably lower prices than the price of similar local product.

b- The imports have principally led to a decrease in the similar local product' s price or prevented any possible increase that could have been achieved had these imports not been imported.

2- The extent of dumped, subsidized or unjustifiably increased imports effect on local producers. This is achieved by evaluating the economic indices and factors related to the status of local producers, including:

a- Actual or potential drop in sales, profits, production, market share, investment returns or utilization of production capacity.

b- The actual or potential negative effects on cash flow, stocks, labor, wages, growth and the ability to attract capitals or investments.

c- Factors affecting local prices.

#### Article 24

The department must ascertain that the dumped, subsidized or unjustifiably increased imports are, as a result of their effects, the cause of damages that has been done or will be done to local producers.

#### Article 25

When assessing the causative relationship, the department must take into account other factors, other than dumped, subsidized or unjustifiably increased imports that caused/might cause damage, such as: volume and prices of imports that are not sold at dumped or subsidized prices and other factors that affect local prices, reduce demand and variations in consumption patterns, trade-restricting practices,

competition between foreign and local producers, technological advances, export performance and productivity of local producers.

#### Article 26

For the purpose of investigating imports of a product from more than one country the department is permitted, for the purposes of damage assessment, to combine the effects, in the case the following were proved:

- 1- That dumping margin relevant to each country imports exceeds 2% from the export price in case of dumping, and the volume of subsidy is at least 1% in case of subsidy.
- 2- The volume of imports from each country is not less than 3% of the total local production.
- 3- The accumulative evaluation of effects is suited to competition conditions between imported products and similar local products.

### CHAPTER EIGHT Potential Damage

#### Article 27

For the purposes of investigating the possibility of local producers being subject to damage, the department shall depend on facts that indicate the immanency of damage, not only on claims or speculations or unexpected possibility. For this regard, the department shall take into account the following:

- 1- Any factors indicating the possibility that an appreciable increase in dumped or subsidized products, such as:
  - a- Any noticeable increase in imports
  - b- Availability of unexploited production capacity or excess stocks in the producing country and the lack of other export markets to accommodate these exports.
  - c- The presence of deals to supply dumped or subsidized products to the Syrian market in the future.
  - d- Having dumped or subsidized products for prices less than those of the similar local product, with the possibility to witness an increase in the prices of this dumped or subsidized product.
- 2- An increase in the stock of dumped or subsidized products, in Syria.

#### Article 28

The department shall not be allowed to decide the presence of potential damage unless the combination of the abovementioned factors leads to the conclusion that there will be an imminent increase in dumped or subsidized imports causing

damages unless measures were taken to prevent it according to this Law.

## CHAPTER NINE Urgent Measures

### Article 29

1- The Minister shall have the right to decide, based upon the Committee recommendation and whether with/without an application, to take urgent measures against the imported product which is under investigation, in case the Committee reached a preliminary decision stressing the existence of harmful practices and that the failure to take such measures could lead to inevitable damages to the local producers.

2- The types, duration and extent of urgent measures shall be defined in the executive instructions of this Law.

### Article 30

1- If a resolution of final measures, according to this law provisions, was issued, the urgent measures shall be stopped and final measures implemented, in addition to returning the guarantees submitted and the fees settled retrospectively.

2- If a resolution was issued not to take final measures, then the guarantees will be returned and also the fees resulting from urgent measures.

3- The conditions and regulations regarding the implementation of items 1 and 2 above shall be defined within the executive instructions of this Law.

### Article 31

Based upon a reason justified by the Minister, the Prime Ministry shall have the right to stop the implementation of urgent measures if it finds out that this application has resulted in adverse effects on other producers or on the public interest.

## CHAPTER TEN Price Pledges

### Article 32

The Minister shall withdraw the resolution to start investigation if the importers pledge to commit to increase the prices to the limit that remove the reasons of investigation, according to the following arrangements:

1- No pledges are accepted regarding prices from importers, unless the Minister has issued a preliminary resolution which stresses the existence of dumping, subsidy, damages or causative relationship.

2- No price pledges are allowed to be accepted if they contain increase in prices to a level higher than subsidy or necessary to remove dumping margin.



3- The department shall decide not to accept price pledges from suppliers in case their acceptance is impractical due to multitude of suppliers or to other reasons. In this case the department shall inform its decision to the suppliers accompanied with its causes if possible.

#### Article 33

The department shall have the right to ask any supplier which has accepted its price pledge, to periodically provide information regarding adherence to this pledge. The department shall be allowed to investigate the relevant data, which are subject to the secrecy regulations stated in this Law.

#### Article 34

The price pledge is automatically removed if a final resolution was issued stating that there is no dumping, subsidy nor resulting damage, unless in cases where such a decision is largely dependent on the presence of this pledge. In this case, the Minister shall be able to stipulate that the pledge remains for a suitable period.

#### Article 35

In case of violating any price pledge, the Minister shall have the right to terminate or suspend the pledge and immediately take urgent actions based upon the information available to him, in addition to applying the retrospective implementation of countervailing fees to cover part or all of the violation.

#### Article 36

The pledge might continue up to five years, which could be extended if the comprehensive review (equal to a new investigation) has found that the pledge is still required to prevent the resumption of unfair trading practices and their damages.

### CHAPTER ELEVEN Retrospective

#### Article 37

It is permitted to impose anti dumping and the retrospective implementation of countervailing fees, for the time span when urgent measures were applied, exclusively in any of the following cases:

- 1- If the damage actually occurred, and was not only potential or came in the form of material hindrance to the establishment of national industry.
- 2- If the damage was potential, or proved to have actual impact in case no urgent measures were taken.

#### Article 38

Anti-dumping fees shall be permitted to be applied in retrospect on goods entered for local consumption which were

admitted within 90 days prior to the application date of urgent measures, and not after the date of investigation, if the two following conditions were met:

1- If dumping that caused the damage to the dumped merchandise was practiced more than once, and if the importer knew "had to know" that the exporter is practicing a dumping activity which could lead to damages.

2- If the damage has resulted from big volume imports of the dumped goods at a relatively short time, this along with other circumstances such as rapid accumulation of import stocks which could weaken the remedial effects of the final anti-dumping fees to be applied.

#### Article 39

It is permitted to impose anti-dumping fees in retrospect on goods entered for local consumption, and admitted within 90 days prior to the date of urgent measures application; if a violation to the price pledge occurs, provided that this period shall not be withdrawn earlier than the date of violation.

#### Article 40

It is permitted to impose compensation fees in retrospect on goods entered for local consumption, which were admitted within 90 days prior to date of urgent measures application, if there were critical circumstances proving damages that can not be repaired due to the entry of large quantities of the product at a relatively short time, and to prevent the reoccurrence of such damage.

#### Article 41

Urgent measures, anti-dumping fees and compensation fees are only applied to the goods imported for local consumption, after the resolutions taken to impose these fees come into effect, other than the exceptional cases stated in this chapter of the Law.

#### Article 42

If the anti-dumping fee or compensation fee was higher than the fee paid or due to be paid or applied during urgent measures application, or higher than the amount estimated for the guarantee or deposit to be submitted according to the provisions of this Law, in such case the difference shall not be collected. However, if the fee is lower, then the difference shall be returned or the fees recalculated, according to the case.

#### Article 43

Except what was stated in Article 37 above, no anti-dumping fees or compensation fees shall be allowed if the damage was potential or forms a material hindrance to the establishment of

local industry, unless from the date of issuing resolutions thereof. Any guarantee submitted during the application of urgent measures shall be returned and any pledges or guarantees releases within 30 days from the resolution date.

## CHAPTER TWELVE Publication and Advertisement

### Article 44

The procedure mentioned below shall be followed regarding public advertisements and notification:

- 1- Advertisements shall be published in two local newspapers at the applicant' s expense.
- 2- Copies of the advertisements shall be sent to bodies concerned with the investigation, known to the department.
- 3- The advertisement shall indicate that relevant bodies can, upon a request, obtain a report detailing the actual causes and basic legal bases for the resolution.

### Article 45

The department shall inform the General Customs Directorate about the names of all exporters of the concerned good who were proven to practice dumping or receive subsidies, to collection fees from them.

## CHAPTER THIRTEEN General provisions

### Article 46

Procedures taken according to this Law shall be canceled when the causes for their implementation were removed, via a resolution by the Prime Minster based upon a recommendation from the Minister, which is in turn based upon the recommendation of the committee.

### Article 47

It shall not be permitted to disclose any confidential information obtained by the department, committee or Ministry to any other body during the application of the provisions of this Law.

### Confidentiality

### Article 48

- 1- If any of the investigation bodies submits data or information deemed confidential by him/her, for justifiable reasons, then is the competent body shall be prohibited from disclosing it without his/her consent, subject to legal liability.
- 2- If the competent body finds that the reasons cited by the investigation body for confidentiality are not justifiable, but still that body insist on considering it confidential, then is the relevant body shall be permitted not to take

such information into account, in the investigation, unless its authenticity is confirmed from reliable and relevant sources.

3- In all cases, any involved party providing confidential information, must submit a summary that is as not confidential as possible and sufficient to clarify the information. The relevant body may waive the summary condition if it found it to be impossible.

#### Article 49

Without prejudice to any stricter punishment stated in the laws in force a delay penalty of at least SYP 150 000 and not exceeding SYP 1500000 shall be imposed on whoever discloses the confidential information stated above.

#### Article 50

The Minister shall issue the executive instructions to implement this Law, with the participation of relevant bodies and in consistency with the obligations imposed on the Syrian Arab Republic due to any Arab or international agreements.

#### Article 51

The Administrative Law Court shall be exclusively assigned to review the disputes related to the implementation of this Law. All appeals shall be made at the Higher Administrative Court. It shall not be permitted to suspend the resolutions issued by the Prime Minister to take measures according to this Law. Settlement of disputes and appeals shall be handled promptly.

#### Article 52

1- The Ministry of justice shall establish a special list to register experts in the specializations required for the implementation of this Law. Registration shall be according to conditions and circumstances issued pursuant to a resolution by the Minister of Justice in agreement with the Minister of Economy and Trade.

2- In cases where the court refers the issue to an expert, he/she shall be given a time limit to complete the mission.

#### Article 53

The Minister of Justice in agreement with the Minister of Economy and Trade shall issue a resolution defining the people members of the judicial brigade regarding the implementation of this Law and its executive instructions.

#### Article 54

The applicant shall pay a fee of SYP 10' 000 when applying.

#### Article 55

Any legislation contrary to this Law shall be cancelled.

#### Article 56



This Law shall be published in the official gazette and is deemed in force starting with 1/1/2007.

Damascus

6/10/1427 H, corresponding to 29/10/2006



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