

On State Regulation Of Foreign Trade Activities

Law of the Republic of Belarus

December 29, 1998

The present Law specifies the legal bases of state regulation of foreign trade activities, right and liabilities of state bodies of foreign trade activities with the aim of insuring the economic safety of the Republic of Belarus, stimulating the development of the national economy when executing foreign trade activities, and provision of the conditions for efficient integration of the economy of the Republic of Belarus into the world economy.

Chapter 1. General Provisions

Article 1. Main notions for use in the present Law

For the purpose of the present Law the following main notions are applied:

foreign economic activities are the activities undertaken by residents of the Republic of Belarus, connected with another state, with its subjects, or with international organizations for sale of goods, works, services, results of intellectual activities;

state monopoly of export and (or) import is the exclusive right of the state of export and (or) import of certain kinds of goods, works, services;

state regulation of foreign trade activities is a system of measures, established by the state with the aim of implementing of the foreign trade policy, based on application of economic and administrative methods in conformity with the legislation of the Republic of Belarus;

import is the delivery to the customs territory of the Republic of Belarus from abroad with the aim of permanent disposition in its territory of goods, works, services, results of intellectual activities, including exclusive rights thereon, on the basis of compensation civil and legal deals. The fact of import is fixed at the moment when the goods are crossing the customs border of the Republic of Belarus, of execution of works, of receipt of services and rights for results of intellectual activities, including exclusive rights thereon;

exclusive rights on results of intellectual activities (intellectual property) - exclusive rights on works of science, literature and arts (copyright); on performances, staging, phonograms, programs of air or cable broadcasting (contingent rights); on inventions, utility models, industrial samples, trademarks, service marks, company's logos, indications of origin or names of places of origin of goods (industrial property); selection achievements; topologies of integrated microcircuits, software and databases, and on other results of intellectual activities, protection of which is envisaged by the legislation;

quoting of export and (or) import is a temporary quantitative restriction of export and (or) import of certain kinds of goods, works, services, established by the authorized state bodies;

licensing of export and (or) import is issuance by the authorized Republican bodies of state management of permits (licences) for import and (or) export of certain kinds of goods, works, services;

nonresidents:

individual persons having permanent residence outside the borders of the Republic of Belarus, including those who are temporally present in the Republic of Belarus;

legal entities with location outside the borders of the Republic of Belarus, established in conformity with the legislation of foreign states;

enterprises and organizations, who are not legal entities with location outside the borders of the Republic of Belarus, established in conformity with the legislation of foreign states;

non-tariff regulation is a form of state regulation of foreign trade activities with the help of which the state is implementing its exclusive right to set forth restrictions on import into the

Republic of Belarus and export out of the Republic of Belarus of goods, works, services, including quoting and licensing of export and (or) import of goods, works, services, establishment of minimum and maximum prices on exported and (or) imported goods in the interests of economic policy of the Republic of Belarus;

border-adjacent territory is the territory as determined by international treaties of the Republic of Belarus with adjacent states for the aims of development of border trade and of other types of foreign economic activities executed by the participants thereof who are enjoying, based on mutuality, a simplified treatment in relation to border-adjacent and customs control;

border trade is the trade executed on the border-adjacent territory of the Republic of Belarus by residents and nonresidents of the Republic of Belarus for satisfaction of local needs, as well as for consumption within the respective border-adjacent territory;

works are the activities executed on the basis of contractual relations, in the process of which a person creates new articles from initial materials (raw materials, substances) or changes by some method properties of existing articles (things);

residents:

individual persons having permanent residence in the Republic of Belarus, including those who are temporally outside the borders of the Republic of Belarus;

legal entities with location in the Republic of Belarus, established in conformity with the legislation of the Republic of Belarus;

adjacent states are foreign states having a common border with the Republic of Belarus;

tariff regulation is the form of state regulation of foreign trade activities with the help of which the state is implementing its exclusive right of setting customs duties on the goods transported through the customs border of the Republic of Belarus;

services are the activities directed at satisfaction of the needs of other persons based on the contractual relations between the producer and the consumer of the services, except of the activities executed on the basis of labour legal relations;

economic safety is a condition of the economy which is insuring a sufficient level of social, political, financial, defence existence and progressive development of the Republic of Belarus, invulnerability and independence of its economic interests in relation to possible external and internal threats and influences;

export is removal out of the customs territory of the Republic of Belarus abroad with the aim of permanent location outside its borders of goods, works, services, results of intellectual activities, including exclusive rights thereon, on the basis of compensated civil and legal deals. The fact of export is fixed at the moment the goods are crossing the customs border of the Republic of Belarus, of execution of works, receipt of services and rights on results of intellectual activities, including exclusive rights thereon.

Article 2. Legislation of the Republic of Belarus on foreign trade activities

The foreign trade activities in the Republic of Belarus are regulated by the Constitution of the Republic of Belarus, by the present Law, by other legislation of the Republic of Belarus.

Article 3. Principles of State Regulation of foreign trade activities

The main principles of the state regulation of foreign trade activities in the Republic of Belarus are the following:

- 1) implementation of foreign trade policy as an integral part of the united foreign policy of the Republic of Belarus;
- 2) unity (harmony) of the system of state regulation of foreign trade activities and control over its implementation;
- 3) unity of the policy of export control executed in the Republic of Belarus;

- 4) unity and integrity of the customs territory of the Republic of Belarus;
- 5) priority of economic measures of state regulation of foreign trade activities;
- 6) strict observance of the legislation of the Republic of Belarus when implementing measures of state regulation of foreign trade activities;
- 7) equal rights of all participants of foreign trade activities and no discrimination of them;
- 8) state protection of rights and legal interests of participants of foreign trade activities;
- 9) exclusion of ungrounded interference of the state bodies into foreign trade activities of the managing subjects, of causing losses to the participants thereof and to the economy of the Republic of Belarus in general;
- 10) equality of rights, respect of sovereignty, non-interference into internal affairs of the countries-trade partners of the Republic of Belarus;
- 11) strict observance of obligations taken by the Republic of Belarus within international treaties.

Article 4. Foreign Trade Policy of the Republic of Belarus

The Republic of Belarus is following an independent foreign trade policy. The State is taking measures to protect its internal market and interests of Belarusian manufacturers with account of international obligations of the Republic of Belarus, as well as contributes to movement of Belarusian goods to external markets.

The interrelations of the Republic of Belarus with foreign states in the field of foreign trade activities are built on the basis of observance of universal principles and norms of international law and obligations proceeding from international treaties of the Republic of Belarus.

With the aims to integrate the economy of the Republic of Belarus into the world economy, the Republic of Belarus is taking part in international treaties on customs unions, zones of free trade and on other interstate formations.

Article 5. Participants of Foreign Economic activities

The right of executing of foreign trade activities shall belong to all the residents of the Republic of Belarus, unless otherwise envisaged by the acts of legislation of the Republic of Belarus, from the moment of their state registration as a legal entity or an entrepreneur who is executing his/her activities without formation of legal entity.

The nonresidents of the Republic of Belarus shall execute their foreign trade activities in the Republic of Belarus in conformity with the legislation of the Republic of Belarus.

The state bodies of the Republic of Belarus acting as a party to a deal shall execute their foreign trade activities in the order and on the terms, envisaged for legal entities of the Republic of Belarus.

Chapter 2. Main provisions of state regulation of foreign trade activities

Article 6. Bodies executing regulation of foreign trade activities

Regulation of foreign trade activities is executed by the President and the Government of the Republic of Belarus.

Co-ordination of the operation of the state bodies on drafting of proposals concerning formation of the state foreign trade policy of the Republic of Belarus, regulation of the foreign trade activities of its participants, conclusion of international treaties of the Republic of Belarus in the field of foreign trade ties shall be executed by the Government of the Republic of Belarus and by the authorized Republican body of state management.

Article 7. Forms of State Regulation of foreign trade activities

The state regulation of foreign trade activities is executed by means of its tariff and non-tariff regulation, of establishment of the exclusive right of the state for execution of certain kinds of foreign trade activities in conformity with the present Law and with the other legislation of the Republic of Belarus.

Any other interference into the activities of the participants of foreign trade activities and any limitations of these activities shall not be allowed, except the cases, determined by the legislation of the Republic of Belarus.

Article 8. Tariff Regulation of Foreign trade activities

With the aims of regulating of import and (or) export of goods, including those of protecting the internal market of the Republic of Belarus, in conformity with the legislation of the Republic of Belarus, import and (or) export customs duties are established.

Article 9. Quantitative Restrictions of export and import

Export and (or) import of goods, works, services shall be executed without any quantitative limitations, except the cases, when such restrictions are introduced by the President or the Government of the Republic of Belarus with the aim of:

- 1) insuring of the economic safety of the Republic of Belarus;
- 2) protection of the internal market of the Republic of Belarus;
- 3) fulfillment of international liabilities of the Republic of Belarus.

Distribution of quotas and issuance of licences when imposing of quantitative restrictions shall be executed, as a rule, through holding of contests or auctions by the Republican body of state management as determined by the Government of the Republic of Belarus.

Procedure of holding such contests or auctions is established by the Government of the Republic of Belarus. Limitation of the number of participants of the contest or the auction and their discrimination on the grounds of the property form or place of registration shall not be allowed.

Article 10. Export Control

Legal basics of the activities of the state bodies, of legal entities and individual persons of the Republic of Belarus in the field of export control are regulated by the legislation of the Republic of Belarus on export control.

Article 11. State Monopoly of Export and (or) import of certain kinds of goods, works, services

State monopoly of export and (or) import of certain kinds of goods, works, services is established in the form of exclusive right of the State on execution of activities of export and (or) import of these kinds of goods, works, services.

The list of certain kinds of goods, works, services, on the export and (or) import of which the state monopoly has been established, shall be determined by the President of the Republic of Belarus or by the Government of the Republic of Belarus.

Activities of export and (or) import of goods, works, services, on which the state monopoly has been established, shall be performed by state bodies, state enterprises, institutions, organizations, associations in the order, determined by the legislation of the Republic of Belarus.

Completion of a deal of export and (or) import of certain kinds of goods, works, services in violation of the order of state monopoly shall result in recognition of such deal to be illegal, and in respective consequences, envisaged by the legislation of the Republic of Belarus.

Article 12. Licensing of Activities of Export and (or) import of certain kinds of goods works,

services

Activities of export and (or) import of certain kinds of goods, works, services in conformity with the legislation of the Republic of Belarus may be executed only on the basis of special permits (licences).

The lists of these types of goods, works, services, the procedure of licensing, the Republican body of state management responsible to issue the respective special permits (licences) shall be determined by the Government of the Republic of Belarus.

Article 13. Protective Measures in Relation of import of goods

In case of some product (goods) being imported in such quantities or on such conditions that a substantial damage is caused, or a threat arises that such damage may be caused to the manufacturers of similar or directly competitive goods on the territory of the Republic of Belarus, or to the economy of the Republic of Belarus in general, the President or the Government of the Republic of Belarus shall be entitled to take protective measures needed for elimination of the damage or prevention of the onset thereof, in the form of quantitative restrictions or introduction of special types of customs duties.

Under substantial damage one should understand the general aggravation of the state of the national production in general, or in a separate branch thereof, reflected in the indices of production decrease of the respective goods or profitability drop, and under the threat of causing substantial damage one should understand an obvious inevitableness of such damage approved by factitious proofs.

The procedure of introducing of protective measures in relation of import of a product (goods) shall be public (open).

Article 14. Prohibitions and Restrictions of export and (or) import based on national interests
Prohibitions and restrictions of export and (or) import of goods, works, services, results of intellectual activities, including the exclusive rights on them, may be established by the President and by the Government of the Republic of Belarus, based on national interests including:

- 1) observance of public morals and public order;
- 2) protection of life and health of people, animals and plants, and of the environment in general;
- 3) protection of cultural values against illegal export, import and assignment of rights thereon;
- 4) necessity to prevent unpractical use of non-replenishable natural resources, if the measures connected with this are undertaken at the same time with restrictions of the respective internal production and consumption;
- 5) provision of economic safety of the Republic of Belarus;
- 6) fulfillment of international liabilities of the Republic of Belarus.

Article 15. Return Measures in the field of foreign trade activities to protect the economic interests of the Republic of Belarus and of residents of the Republic of Belarus

In case a foreign state has taken measures touching on the economic interests of the Republic of Belarus or of the residents thereof, in case of nonfulfillment by this state of liabilities in front of the Republic of Belarus taken by it in accordance with international treaties, the President of the Republic of Belarus or, on his direction, the Government of the Republic of Belarus may introduce the return measures in the field of foreign trade activities in conformity with the legislation of the Republic of Belarus, with the norms of international law and within the limits necessary for efficient protection of economic interests of the Republic of Belarus and of the residents thereof.

Article 16. Technical, pharmacological, sanitary, veterinary, phytosanitary and ecological standards and specifications in relation to imported goods. Control over the quality of imported goods

The import of goods to the customs territory of the Republic of Belarus shall be allowed only in case they conform to safety specifications for life and health of people, for property of legal entities and individual persons, for protection of environment, as well as to other specifications, standards, norms and regulations established by the acts of the legislation and by international treaties of the Republic of Belarus

Approval of the conformity of the imported goods to the above specifications shall be made in the order, established by the legislation of the Republic of Belarus.

Chapter 3. Special regimes of implementing of certain kinds of foreign trade activities

Article 17. Along-the-border trade

The procedure of implementing of the along-the-border trade shall be determined by the Government of the Republic of Belarus in conformity with the legislation of the Republic of Belarus and international treaties of the Republic of Belarus.

Article 18. Free economic zones

Foreign trade activities on the territory of free economic zones shall be performed in conformity with the legislation of the Republic of Belarus on free economic zones.

Chapter 4. Promotion of development of foreign trade activities

Article 19. Information support of foreign trade activities

In the aims of development and increase of efficiency of foreign trade activities on the territory of the Republic of Belarus, a system of collection, processing and dissemination of foreign trade information has been launched into operation.

The procedure of collection, processing and dissemination of foreign trade information, as well as sources and the procedure of financing of the system of foreign trade information shall be determined by the Government of the Republic of Belarus.

The foreign trade information comprises the data on the following:

- 1) a development program of foreign trade activities;
- 2) residents and nonresidents of the Republic of Belarus who are executing the foreign trade activities on the territory of the Republic of Belarus;
- 3) Belarusian and foreign legislation in the sphere of foreign trade activities;
- 4) international liabilities of the Republic of Belarus concerning issues of foreign trade activities;
- 5) activities of Belarusian banks insurance and other organizations providing services of crediting and insurance in the field of foreign trade activities;
- 6) foreign trade statistics of the Republic of Belarus, including the balance of trade of the Republic of Belarus, including the regional and branch ones, for each of the state-members of the Union of Belarus and Russia, for the Commonwealth of Independent States and beyond these countries;
- 7) economic situation in the foreign markets in main groups of products;
- 8) list of goods prohibited for import to the territory of the Republic of Belarus and for export from its territory;
- 9) other information in the field of foreign trade activities.

Participants of foreign economic activities shall have the right to obtain the information

necessary for fulfillment of such activities, under the condition that it does not comprise the information containing state secrets or other information under protection of the legislation of the Republic of Belarus. The procedure of using the information comprising state secrets, or of other data protected by the legislation of the Republic of Belarus shall be determined by the legislation of the Republic of Belarus.

Article 20. Measures, promoting development of foreign trade activities

The Government of the Republic of Belarus with the aim of ensuring of economic interests and in conformity with international liabilities of the Republic of Belarus shall take measures to promote development of foreign trade activities, including:

- 1) drafting development programs of foreign trade activities;
- 2) taking measures to provide crediting of the participants of foreign trade activities;
- 3) ensuring operation of the systems of guarantees and insurance of foreign trade deals;
- 4) organization of trade exhibitions and fairs, specialized symposiums and conferences, and participation in them;
- 5) organization of advertising campaigns and campaigns for development of export of goods, works, services;
- 6) establishment and promotion of development of the system of foreign trade information and of the information and consultancy services;
- 7) running of the state system of catalogues of products and goods;
- 8) implementation of various forms of stimulation and remuneration of foreign trade activities.

Article 21. Insurance in foreign economic activities

Insurance services in foreign economic activities on the territory of the Republic of Belarus shall be executed in conformity with the legislation of the Republic of Belarus on insurance activities.

The state with the aim of stimulating of export may participate in the system of insurance of export credits through the authorized state insurance organizations.

Insurance against commercial risks in foreign economic activities shall be performed on the voluntary basis through insurance contracts in conformity with the legislation of the Republic of Belarus.

Article 22. Foreign trade statistics

The Government of the Republic of Belarus or the Republican body of state management authorized by them, together with the National Bank of the Republic of Belarus shall ensure establishment of the state system of statistical reporting, collection and drafting based on the united methodology, of the necessary data comparable in the international level on the following:

- 1) foreign trade of the Republic of Belarus based on state statistical accountancy and customs statistics, including trading balances of the Republic of Belarus;
- 2) balance of payments of the Republic of Belarus, including statistics of import and export of goods, works, services, capital, securities, acceptance and servicing of credits and assistance.

The Government of the Republic of Belarus or the Republican body of state management authorized by them, in cooperation with the National Bank of the Republic of Belarus, shall ensure, on the monthly, quarterly and annual basis, official publication of statistical information.

Article 23. Associations to promote development of foreign trade activities

Participants of foreign economic activities may form, on the voluntary basis, associations on the territory of the Republic of Belarus on the branch, territorial or other principles in conformity with the legislation of the Republic of Belarus.

Associations of participants of foreign trade activities are established with the aim of protecting the interests of their members, representing of their common interests, improvement of the efficiency and bringing into order of export and import of goods, works, services, avoiding of unfair competition, of development and improvement of foreign trade connections with nonresidents of the Republic of Belarus and with their associations.

It is not allowed to use such associations for monopolizing and division of the internal market, for limiting of conditions for competition among the participants of foreign trade activities, who are not members of these associations, to discriminate in any form residents and nonresidents of the Republic of Belarus depending on their participation in the associations, to use such associations for restricting of business practice in the internal and external markets, as well as in other cases, envisaged by the legislation of the Republic of Belarus.

Article 24. Promotion of favourable conditions for access to external markets

The Government of the Republic of Belarus shall take measures to establish favourable conditions for access of the residents of the Republic of Belarus to the markets of other states by means of conclusion of international treaties, as well as by participation in establishment and activities of international organizations and intergovernmental commissions intended to promote trade and economic ties of the Republic of Belarus with foreign states.

Chapter 5. Control over execution of foreign trade activities. Responsibility for breaching of the legislation of the Republic of Belarus on foreign trade activities

Article 25. Control over execution of foreign trade activities

Control over execution of foreign trade activities shall be conducted by the respective state bodies of the Republic of Belarus within their competence with the aim of insuring observance of the provisions of the present Law and of other legislation of the Republic of Belarus on foreign trade activities, of insuring and protection of economic interests of the Republic of Belarus and of the participants of foreign trade activities.

Article 26. Responsibility of the persons guilty of breaching of the legislation of the Republic of Belarus on foreign trade activities

The persons guilty of breaching of the legislation of the Republic of Belarus on foreign trade activities, shall bear responsibility in conformity with the legislation of the Republic of Belarus.

Chapter 6. International treaties of the Republic of Belarus

Article 27. International treaties of the Republic of Belarus

If the international treaties of the Republic of Belarus establish other regulations than those comprised in the present Law, the regulations of the international treaty shall be applied.

Chapter 7. Concluding provisions

Article 28. Enactment of the present Law

The present Law shall come into force thirty days after its publication.

Article 29. Bringing of the acts of the legislation into conformity with the present Law
The Government of the Republic of Belarus shall take measures, within three months after the enactment date of the present Law, for bringing of the legislation of the Republic of Belarus into conformity with the present Law.