

**National Production Protection Law
No. (21) for the year 2004**

Table of Content of the
National Production Protection Law No. (21) for the year 2004

Article	Title
1	The Law and The Effective Date.
2	Definitions.
3	Scope of Application of the Law.
	Measures
4	Measures to Counteract Injurious Practices.
	Application to Impose Measures
5	Application to Impose Measures to Counteract Injurious Practices.
6	Decision of the Minister to Commence Investigation.
7	Performance of the Investigation.
	The Investigation
8	The Investigation and The Assembly of Information.
9	Evidences Submitted to Substantiate Injurious Practices.
10	Decision of the Minister to Suspend or Terminate the Investigation.
11	Situations where an Investigation is terminated.
12	Completion of the Investigation.
	Provisional Measures
13	Realization of Provisional Measures
14	Terminating or Replacing the Provisional Measures with Final Measures .
15	Suspending the Application of Provisional Measures
	Final Measures
16	Submittal of a Justified Recommendation to the Minister .
17	The Decision to Impose Final Measures and the Council of Ministers Approval.
18	Amount of Imposed Duties.
19	The Scope of Application of Safeguard Measures.

- 20 Submission of another Application based on the same evidences.
- 21 Safeguard Measures
Safeguard Measures
- 22 General Provisions
Prohibition of Disclosing Confidential Information and Violation Penalty.
- 23 Consideration of Regulations and Agreements in the course of Applying the Law.
- 24 Consulting Member Countries.
- 25 Registers of Dumping, Subsidizing and Safeguard.
- 26 The Safeguards , Anti-Dumping and Subsidies Regulations.
- 27 Cancellations.
- 28 Persons Responsible for the Implementation of this Law.

National Production Protection
Law
No. (21) for the year 2004

Article (1):

This Law shall be cited as the "National Production Protection Law for the year 2004" and shall come into effect as of the date of its publication in the Official Gazette.

Article (2):

a) The following terms and expressions, wherever used in this Law, shall have the meanings hereunder assigned to them, unless the context provides otherwise:

The Ministry: Ministry of Industry and Trade.

The Minister: Minister of Industry and Trade.

The Directorate: National Production Protection Directorate.

Like Product: The domestic product similar in all aspects to the product imported to the Kingdom, or one similar to a great extent in its characteristics or usages in the absence of similarity.

Domestic Producers: All domestic producers of the like product or those of them whose collective output constitutes a major proportion

of the total production of the domestic like product.

Injurious Practices: An increase in imports of a certain product imported to the Kingdom or its import at dumped or subsidized prices.

Measures: Any measures which may be applied in accordance with the provisions of this law against injurious practices represented in safeguard measures, anti-dumping duties and countervailing duties.

Organization: World Trade Organization.

Member Countries: Member countries in the Organization.

Injury : The Serious or Material injury or both together.

Serious injury: Injury that has a significant negative overall impairment on the domestic producers or the threat thereof as a result of the increase in imports.

Material injury: Material Injury on domestic producers or threat thereof in conditions of Dumping and Subsidizing, or Material injury which retards the establishment of a domestic industry.

Article (3):

a) The provisions of this law shall apply to industrial and agricultural products imported to the Kingdom from member countries.

b) The Council of Ministers may apply any of the provisions of this law on imported products from non-member countries or impose a customs duty on products imported from such countries, or impose any other measures in their regard, it deems necessary for the protection of national production, including the imposition of duties to the extent necessary to achieve this purpose.

Measures

Article (4):

a) Pursuant to the provisions of this law, measures to be applied against Injurious Practices shall be in the following manner:

1. Application of safeguard measures against increase of imports into the Kingdom, whether such increase was absolute in

comparison with previous years, or relative to domestic production.

2. Imposition of anti-dumping duties if the export price of a product imported to the Kingdom is less than its normal value.
3. Imposition of countervailing duties, if the subsidy given to a product imported to the Kingdom is susceptible to having measures taken against it.

b) It shall not be permissible to apply any of the measures stipulated in paragraph (a) of this article, unless it was substantiated, upon an investigation performed by the Directorate in accordance with the provisions of this law that injurious practices exist and have caused injury to domestic producers.

Application

Article (5):

a) Domestic producers or representatives thereof may submit a written application to the Minister to counter injurious practices, provided that such application contains information and evidence of the existence of such Practices, injury and a causal link .

b) If the injurious practices are concerned with an agricultural product, the application shall be submitted by domestic agricultural producers of such products, or by the Minister of Agriculture in accordance with the provisions of paragraph (a) of this article.

c) The Directorate shall examine the application to ascertain that it satisfies the conditions and requirements stipulated in this law and the regulations issued in its pursuance, and shall submit its recommendations to the Minister to decide the initiation of the investigation or rejection of the application. The Minister shall issue such a decision within a period that does not exceed fourteen days from date of satisfying such conditions and requirements and he may extend same to a similar period upon justified reasons noting the agricultural seasons and what they necessitate as of provisional measures.

d) The examination of the application pertinent to a specific product, or the relevant investigation procedures, may not hinder its customs clearance procedures.

Article (6):

a) The Minister shall issue, upon recommendation by the Directorate, a decision to initiate the investigation, if the following conditions are present:

1. Support of the domestic producers to the application submitted for the imposition of measures.

2. Presence of sufficient evidence on injurious practices, injury and a causal link between both.
3. Import volume of the product, in conditions of dumping and subsidizing, is not less than the limit set in pursuance to the regulations issued pursuant to the provisions of this law.

b) The Directorate shall announce the initiation of the investigation immediately following the determination of the Minister to initiate it.

Article (7):

Upon the decision of the Minister, the Directorate may self-initiate an investigation if it becomes aware of sufficient evidence on the existence of injurious practices and injury resulting thereof.

The investigation

Article (8):

a) The Directorate shall carry out an investigation regarding injurious practices and injury resulting thereof. It shall examine for such purpose a time period called the period of investigation including any period prior to the date of submission of the application. The information pertaining to injurious practices and injury during such period shall be assembled and the accuracy of such information shall be verified and analyzed provided that such period is adopted in accordance with basis set in pursuance to the regulations issued for this purpose.

b) The Directorate shall give interested parties and participating parties to an investigation the opportunity to submit any evidence or information in that regard. Public hearings shall be conducted upon request of interested parties to hear their statements and to discuss such evidence and information. The Directorate shall enable such parties to examine any information or evidence pertinent to the investigation, should such information be non-confidential.

Article (9):

a) The Directorate shall examine and verify the accuracy of the information submitted to determine the existence of injurious practices, injury and causal link. It may also request any information pertinent to the investigation from the interested and participating parties.

b) The Minister may request any related entity to an investigation including the Customs Department and Department of Statistics or any public or private entity to provide any information related to the subject of investigation. They shall be obliged to submit such information notwithstanding the provisions stipulated in any other legislation.

Article (10):

The Minister may, upon recommendation by the Directorate, determine the suspension or termination of the investigation in conditions of dumping or subsidizing at any time without imposing anti-dumping duties or countervailing duties, shall he accept an undertaking submitted by the exporter of the product to revise his prices or suspend exporting to the Kingdom at dumping or subsidized prices, or if the country granting the subsidies undertakes the termination thereof. The Minister may decide the continuance of the investigation in spite of accepting such an undertaking.

Article (11):

a) The Minister shall terminate the investigation, upon recommendation by the Directorate, without imposing the Measures in any of the following circumstances:

1. If the submitted evidence pertaining to the existence of Injurious Practices or resulting injury is insufficient.
2. If the submitted application was withdrawn and such procedure did not conflict with public interest.
3. If the recommendation of the Directorate confirms the absence of Injurious Practices or injury.

b) The Minister shall decide, upon recommendation by the Directorate, to terminate the investigation in regard of a product of a specific exporter or a certain country, in conditions of dumping and subsidizing, without imposing any measures; if the margin of dumping, the amount of subsidies or the volume of imports of this product is less than the limit set in the regulations issued by this law.

c) If the investigation is terminated in accordance with the provisions of paragraphs (a) or (b) of this article, the Minister shall issue the necessary decisions regarding the following:

1. Termination of the imposed provisional measures and issue a decision to refund any paid duties or submitted guarantees.
2. Cancellation of any undertakings accepted in accordance with the provisions of article (10) of this law.

Article (12):

If the initiation of an investigation is decided, the Directorate shall consider the following periods for completion of the same:

a) Within a period that does not exceed six months as of the date of initiating a Safeguards investigation. It shall be permissible, upon decision of the Minister, to extend such period in special cases provided that the entire period does not exceed eight months.

b) Within a period that does not exceed a year as of the date of initiating an Anti-dumping or Anti-subsidies investigation. It shall be permissible, upon decision of the Minister, to extend such period in special cases provided that the entire period does not exceed eighteen months.

Provisional Measures

Article (13):

a) The Minister may decide, upon recommendation by the Directorate, to impose provisional measures, if the Directorate reaches a preliminary determination on the existence of injurious practices and resulting injury, and if it was demonstrated that delay to impose such measures would cause damage which would be difficult to repair.

b) The types of provisional measures, their duration and scope of application shall be set in accordance with the regulations issued by this law.

Article (14):

a) If a decision to impose final measures is issued, provisional measures shall be terminated. The submitted guarantees shall be refunded and the collected duties shall be settled retroactively.

b) However, if a decision not to impose final measures is issued the submitted guarantees and the collected duties shall be refunded.

c) The provisions and conditions pertinent to the implementation of paragraphs (a) and (b) of this article shall be set in the regulations issued by this law.

Article (15):

The Council of Ministers may suspend the application of provisional measures shall it become evident to the Council that such application would negatively affect other domestic producers, consumers, or the public interest.

Final Measures

Article (16):

Upon the completion of the investigation, the Directorate shall submit a justified recommendation to the Minister, based on objective evidence and accompanied with a comprehensive report illustrating the results achieved on the existence of injurious practices, injury and the causal link.

Article (17):

a) 1. If the recommendation submitted to the Minister confirms the existence of injurious practices, injury and causal link the Minister shall determine the imposition of final measures against such injurious practices provided his decision contains the type of such measures, their magnitude and scope of application. Such decision shall be submitted within ten days to the Council of Ministers to approve it.
2. The Council of Ministers may approve or disapprove the decision without amending it within a period that does not exceed thirty days as of the date of submitting the decision. The decision of the Council of Ministers shall be final and subject to appeal to the High Court of Justice.

b) If the Council of Ministers approves the decision to impose final measures , their application shall commence as of the date set by the Council.

Article (18):

a) When imposing the final measures due allowance shall be given that the measures are applied to the extent necessary to prevent or remedy injury in a manner which facilitates the adjustment of domestic producers so as to guarantee the protection of the interests of the Kingdom, provided that the provisions of such measures, their conditions and maximum limit of the application period are set in the regulations issued by this law.

b) It shall not be permissible, for the amount of the imposed anti-dumping duties or countervailing duties to surpass the margin of dumping represented in the difference between the normal value and the export price, or the amount of subsidy determined by the investigation. It shall be permissible to determine such duties in amounts lower than the margin of dumping or the amount of subsidy if such duties are adequate to remedy the injury, provided that any duty collected is refunded if it exceeds the margin of dumping or the amount of actual subsidy after the final decision to impose the anti-dumping and countervailing duties comes into effect.

c) An imported product may not be subject to dual application of anti-dumping duties and countervailing duties in situations where it constitute dumping and subsidizing simultaneously.

Article (19):

Safeguard measures shall be applied to all imports of the product irrespective of their source. Anti-dumping duties and countervailing duties shall be imposed on all imported products introduced for domestic consumption from sources established to practice dumping or receive subsidies.

Article (20):

If the imposition of measures is rejected in pursuance to the provisions of this law, it shall not be permissible for the applicant to submit another application based on the same factual aspects and reasons provided in the first application before one-hundred and eighty days from the date of issuing the decision whether by the Minister or the Council of Ministers, as the case may be.

Safeguard measures

Article (21):

a) The Minister shall decide, upon recommendation by the Directorate, to impose the following safeguard measures which he deems necessary:

1. Determine the shares of the quota which may be imported from the imported product.
2. Recommend to the Tariff Council to examine the imposition of a customs tariff on the imported product, or to increase the customs tariff applied thereon, or to cancel the tariff applied on an imported product used in the production of the like product or reduce it. The Tariff Council shall submit its recommendation in this regard to the Council of Ministers to take the appropriate decision.
3. Any measures, which support the adjustment of domestic producers to imported products, provided it does not conflict with the Agreement on Safeguards issued by the Organization.

b) The basis and conditions necessary for excluding any developing member country from the application of safeguard measures shall be determined in pursuance to the regulations issued by this law, provided that such exclusion, in all cases, shall be made by a decision from the Council of Ministers, upon the recommendation of the Minister.

General provisions

Article (22):

a) It shall not be permissible to disclose confidential information which the Ministry, the Directorate or any person or other official entity, examined in the course of carrying out their duties to implement the provisions of this law and the regulations issued in pursuance. The standards for such confidentiality and the provisions pertinent thereto, shall be set in pursuance to the regulations issued by this law.

b) Each person violating the provisions of paragraph (a) of this Article shall be penalized with a fine not less than one-thousand Dinars and not more than three-thousand Dinars.

Article (23):

The Safeguards Agreement, the Anti-Dumping Agreement, and the Subsidies and Countervailing Measures Agreement and international applications in this scope applied by the Organization, shall be given due allowance when applying this law and the regulations issued in pursuance.

Article (24):

The Ministry shall be required to consult with member countries with significant interest before imposing any Measures in pursuance to the provisions of this law.

Article (25):

a) The following registers shall be organized in the Ministry under the supervision of an official in the Directorate named by the Minister:

1. Dumping register.
2. Subsidies register.
3. Safeguard register.

b) The statements recorded in the registers stipulated in paragraph (a) of this Article, the documents kept with the Directorate and the duties for examining such registers shall be set in pursuance to a regulation issued for this purpose.

Article (26):

The Council of Ministers shall issue the necessary regulations to implement the provisions of this law including the safeguard measures Regulation and Anti-Dumping and Anti-Subsidies Regulation, provided they contain the following particularly:

a) The duties collected from the applicant of the protection application of Injurious Practices.

b) The basis and standards related to an increase in imports, injury, the causal link, and issues supporting the Directorate and related to the substantiation of same.

c) The manner of applying the Measures, the maximum limit for their durations, conditions of their renewal, revision, termination, gradually liberalizing same, evaluating, re-imposing same and the remaining provisions related therewith.

d) Public announcements, reminders and notices related to decisions issued in pursuance to the provisions of this law, and notifications to interested parties, Member Countries, the Organization or any of its apparatuses.

e) The basis and standards related to the existence of dumping of a specific product and the manner of calculating its export price, its normal value and margin of dumping, and determining the existence of injury and causal link and the issues related to the substantiation of that.

- f) The basis and provisions related to the existence of subsidizing, its calculation, and determining the existence of injury and a causal link and issues related to the substantiation of that.
- g) Investigation procedures and matters contained therein and determining the interested parties and participating parties therein.
- h) Provisions of price undertakings, their duration, review and termination.
- i) The basis of determining the quota shares of the imports and the manner of their allocation to importing countries in the case of an increase in the imports.
- j) Basis related to the existence of liaison relationships between interested parties subject to the provisions of this law and the results arising there from.
- k) Information and evidence whose availability is necessary in the application to impose Measures and the entities which may submit an application, such as the representative of the Domestic Producers.
- l) Provisions related to supporting Domestic Producers to request the imposition of Measures.
- m) Results arising from the existence of direct competing products in the case of an increase in the imports and the provisions related therewith.
- n) Determination of the periods necessary for the realization of the preliminary decisions stipulated in this law.

Article (27):

- a) The National Production Protection Law No. (4) of 1998 shall be cancelled provided that the regulations and instructions issued in pursuance remain effective until they are cancelled or replaced with others.
- b) The provisions of any other legislation shall not be enforced to the extent they conflict with the provisions of this law.

Article (28):

The Prime Minister and the Ministers shall be responsible for the implementation of the provisions of this law.