

LAW No. 04/L-048
LAW ON EXTERNAL TRADE

Assembly of Republic of Kosovo,

Based on Article 65 (1) of the Constitution of the Republic of Kosovo,

Approves

LAW ON EXTERNAL TRADE

Article 1
Purpose

The purpose of this Law is to define the general rules for the exercise of external trade between persons settled within and out of the territory of Kosovo in compliance with the best International practices.

Article 2
Scope

Activities of external trade may be carried out by natural and legal persons, while trade for commercial purposes may be carried out only by persons registered for carrying out the economic activity in Kosovo.

Article 3
Definitions

1. Terms used in this Law shall have the following meaning:

1.1. **Ministry** – the Ministry of Trade and Industry.

1.2. **Minister** – Minister of Trade and Industry.

1.3. **WTO** - World Trade Organization.

1.4. **Export or exporting** – customs procedures that are applicable to goods which are in free circulation in Kosovo, and leave territory of Kosovo to permanent destination in the territories outside Kosovo.

1.5. **Import or importing** - customs procedures that are applicable to goods which enter into free circulation in the territory of Kosovo.

1.6. **Person** – natural and legal persons, where there are included corporations, limited liability companies, co-partnerships, and in cases when the rules into force permit, union of persons whose ability is recognized to carry out or undertake legal activities, unless otherwise defined by the context. Moreover, if the circumstances define another aim, the words which describe one gender shall mean even the other gender, as well as those presented in singular shall mean those presented in plural and vice versa.

1.7. **Resident** – shall mean and include each of the following:

1.7.1. natural person who is citizen of Kosovo, or has a permanent residence in the territory of Kosovo;

1.7.2. enterprise, except a branch or an office of the enterprise, if such enterprise is registered in compliance with normative acts applicable in Kosovo and if it has its headquarters, main name of the business, books and registers in the territory of Kosovo; and

1.7.3. branch or office of the enterprise, not taking into consideration if such enterprise is or is not resident, if such branch or office is established and registered in compliance with applicable normative act of Kosovo, daily administration and managing of such branch or office is in fact carried out in the address registered in Kosovo, and special books and registers on the activity of such branch or office is lead in the same address.

1.8. **License** – administrative authorization issued after the approval of the application submitted by the interested person at relevant public authority as a precondition for importing and exporting of goods. In support to the application there may be required various documents amongst those required for customs.

1.9. **Quota** – numeric, quantity restriction or restriction in value that is fixed in any kind of activity of external trade. “Quota” shall include any other measure which may lead to or has the same circumstances with these restrictions.

1.10. **Goods** – include products, load, baggage, productions, commercial goods, animals, materials, articles, supplies, items, transport means, property and currency.

1.11. **Customs** – Customs of Republic of Kosovo.

1.12. **Licensing Authority** - any public authority, executive government authority, public institution, ministry, department, agency, or any other unit which has executive, legislative and administrative competencies within the territory of Kosovo and which is authorized and has responsibility deriving from this Law or other normative acts to issue License for Export or Import.

1.13. **Government** – Government or any public body (national agency) in the territory of state of origin or export.

1.14. **Importer** – any person, who, at the moment of importing:

1.14.1. is owner of imported goods;

1.14.2. carries the risk for imported goods;

1.14.3. represents or introduces himself/herself as he/she is importer or owner of the imported goods;

1.14.4. truly brings goods in Kosovo;

1.14.5. in a way or another has financial interests in any imported good;

1.14.6. carries final legal responsibility defined according to this Law on importing of goods;

1.15. **Exporter**- any person, who, at the moment of exporting:

1.15.1. is owner of exported goods;

1.15.2. carries the risk for exported goods;

1.15.3. represents or introduces himself/herself as he/she is exporter or owner of the exported goods;

1.15.4. truly sends or tries to send goods from Kosovo;

1.15.5. in a way or another has financial interests in any exported good;

1.15.6. carries final legal responsibility defined according to this Law on exporting of goods.

1.16. **National treatment** – provision of all competitive opportunities, including even the access to market, goods and foreign persons in the same way as it is provided to the goods and persons in Kosovo.

1.17. **Transit** – transport of goods, with the origin from the states out of Republic of Kosovo that enter and pass through the customs territory of Kosovo with the destination out of this territory;

1.18. **Restrictive measure** – restriction, request or measure described in Article 5 of this Law;

1.19. **Enterprise** – any legal person, business organization, co-partnership, joint enterprise, public enterprise, association, project, branch, office or other organizations.

1.20. **The most favoured nation** - the concept as foreseen in Article 16 of this Law.

1.21. **Non-resident** – includes each of the following:

1.21.1. natural person who is not resident and has not a permanent residence in Kosovo;

1.21.2. an enterprise which does not fulfil the requests defined in sub-paragraph 1.7.2. of the definition “Resident”;

1.21.3. a branch or representative office of a resident enterprise, if such a branch or representative office that is located in another territory, does not fulfil the requests of sub-paragraph 1.7.3. of the definition “Resident”.

1.22. **Prohibited goods** – goods that are not allowed to be imported into or exported from Kosovo.

Article 4 **The principle of free trade**

Public authority or normative acts can not impose restrictions, prohibitions or conditions in any external trade activity, to damage or impose conditions on the ability or the right of every resident or non-resident to include or perform external trade activities, unless in cases when this Law defines specifically or allows otherwise. Furthermore, a public authority or normative act can not impose such measures that produce specific, restricting and prohibiting requests, unless this Law defines specifically or allows otherwise.

Article 5
Restricting measures on the exercise of trade

1. If the provision of this Law requires or authorizes the imposition of protection measure that otherwise it would be in contradiction with Article 4 of this Law, Government of Kosovo shall, when it is necessary, normative act on initiation of such restricting measure; with the condition that, any such restricting measure initiated in this way should be in compliance with the following criteria:

1.1. it must be clearly authorized by and consistent with the concerned provision of the this Law;

1.2. it must be clearly related to and clearly necessary for the achievement of the purpose specified in such provision;

1.3. its type and scope must be limited to the minimum necessary to achieve such purpose;

1.4. its implementation shall be done in the manner that creates the least possible interference and imposes the least possible burden on external trade activities and the general freedom of economic activity;

1.5. it shall not be contrary to any international agreement that is binding on Kosovo;

2. A protection measure may not negatively affect the performance of a contractual obligation existing at the time such restrictive measure is adopted unless the achievement of the purpose of such restrictive measure would be more than insignificantly jeopardized by the performance of such obligation.

3. A restrictive measure shall be repealed, or its scope thereof shall be reduced as and insofar as the reasons justifying its existence or scope of application cease to exist or otherwise become irrelevant.

4. If a protection measure, or the manner of its implementation, has not any discriminatory, noncompetitive or trade protection element or produces effects that are not clearly and substantially necessary for the achievement of the purpose of the concerned provision of the this Law, such measure and/or its method of implementation shall be either voidable or, if practicable, narrowly interpreted and applied in a manner that eliminates or reduces to a minimum such unrelated or unnecessary discriminatory, anti-competitive or trade-restrictive element or effect.

5. All protection measures shall be established, developed and published in a fully transparent manner.

Article 6
Authority for the implementation of restrictive measures

1. The Government of Kosovo through sub-legal acts may prohibit the import or export of specific goods.

2. The Government of Kosovo through a sub-legal acts shall determine which licensing authorities or competent agencies may implement protection measures.

3. The Government of Kosovo shall ensure that the MTI and other public authorities that have a legitimate and obvious interest in the preparation and implementation of a restrictive measure cooperate with respect to the preparation of the procedures, criteria and mechanisms required for the appropriate implementation thereof. However, the MTI shall be responsible for ensuring that such activities are conducted in full compliance with the this Law and any other sub-legal act or acts.

4. The MTI shall ensure that the preparation and implementation of all restrictive measures are conducted and coordinated in an efficient manner that is free of redundant or duplicative requirements or procedures.

Article 7

General rules regarding export and import licenses

1. If this Law or any other normative act issued pursuant to this Law stipulates that an import license or an export license is required for the execution or performance of an import or export transaction, the concerned licensing authority shall, except as provided in paragraph 2. of this Article., issue the requested license to the concerned applicant.

2. The concerned licensing authority shall deny the application for the required import license or export license only if this Law or other normative act requires such denial or the concerned licensing authority articulates clearly in writing and compelling reasons demonstrating that the issuance of the requested license to the concerned applicant would materially jeopardize the purpose of the provision establishing the license requirement.

3. In the event a licensing authority denies an application for an import license or an export license, the licensing authority must provide the concerned applicant with a detailed written statement of the legal bases and reasons for such denial.

4. A normative act issued pursuant to this Law may, to the extent authorized by this Law, may define certain criteria and condition the granting of the export license or import license upon the concerned applicant's ability to meet these criteria; provided that all such criteria shall be transparent and clearly and substantially necessary for the fulfillment of the public purpose underlying the concerned export license or import license requirement.

5. Within thirty (30) days of the date of the licensing authority's denial of an application for an import license or an export license, the concerned applicant may file a request for reconsideration at the licensing authority. The licensing authority shall provide the concerned applicant with written confirmation of the time and date of its receipt of the request for reconsideration.

6. The licensing authority shall make its decision with respect to a request for reconsideration of its denial of an application for an import license or an export license within thirty (30) days of the receipt of the request for reconsideration. In the event a licensing authority denies a request for reconsideration of an application for an import license or an export license, the licensing authority must provide the concerned applicant with a detailed written statement of the legal bases and reasons for such denial.

7. Within thirty (30) days from the date of the licensing authority's denial of a request for reconsideration according to this Article, the concerned applicant may file a request the MTI for a review of the decision of the licensing authority. The MTI shall provide the applicant with written confirmation of the time and date of its receipt of the request for reconsideration. This Article shall not apply in those situations where the licensing authority is MTI itself.

8. The MTI shall make its decision with respect to a request for reconsideration of the licensing authority's decision within thirty (30) days of the receipt of the request for reconsideration. In the event the MTI denies a request for reconsideration of the licensing authorities decision, the MTI

must provide the concerned applicant with a detailed written statement of the legal bases and reasons for such denial.

9. The decision the MTI, based on this Article, shall be subject to judicial review under applicable Laws.

10. No person or enterprise that is authorized with an import license or export license shall transfer the license or allow it to be used by any other person or enterprise.

11. Import or Export Licenses shall be valid for a period specified in the applicable legislation.

Article 8 **Conditions for imposition of restrictive measures**

1. Restrictive measures on imports may be imposed with the purpose of:

- 1.1. protection of the life of humans, animals and plants;
- 1.2. implementation of sanctions of United Nations;
- 1.3. protection of the balance of payments;
- 1.4. protection of public moral;
- 1.5. control of traffic of weapons, ammunition, war equipments, radioactive material.

2. MTI in cooperation with the Licensing Authority shall compile an "Import Control List" and "Export Control List" of restricted imports and exports, whose importation or exportation is subject to a license. The Government of Kosovo may include on such lists types or classes of goods only if there are clear, substantial and objective reasons demonstrating that it is necessary to control the import or export of such types or classes of goods in order to materially advance the achievement of one of the following purposes:

- 2.1. prevent an infringement of intellectual property rights;
- 2.2. implement restrictions on export transactions involving gold;
- 2.3. protect animals and plants;
- 2.4. protect items designated as national treasures and having recognized significant artistic, archeological or historic value;
- 2.5. implement obligatory provisions in an international agreement;
- 2.6. implement measures necessary for the conservation of exhaustible natural resources;
- 2.7. implement temporary measures to protect the supply of essential foodstuffs and other vital goods;
- 2.8. impose a quota applied by other states;
- 2.9. limit trade in weapons, military equipments, and radioactive material for reasons related to national security; and,
- 2.10. enforce requirements, such as sanctions, imposed by the United Nations.

3. Criteria for obtaining an import or export license shall not be discriminatory. A license for a particular kind or category of goods shall be granted only to the holder of a license for the particular activity, in cases where such is required under the applicable Laws.

4. Licensing authorities shall be responsible for determining the form and manner for application of a license.

5. With the exception of goods specified in the Import and Export Control Lists in accordance with this Article, no license from any other kind of public authority is required to import and export goods into Kosovo.

Article 9 Licenses for multiple shipments

The holder of an import or export license, for goods specified on an Import or Export Control List, shall be allowed to import or export, as the case may be, specified amounts of respective restricted goods at any time and by multiple shipments for a period of the validity of the license.

Article 10 Restrictions on the use of imported and exported goods

An import or export license may contain conditions that restrict the use or other disposal that may be made with respect to the imported goods, if it is clearly necessary to achieve the objective of the restriction.

Article 11 Consistency with WTO requirements

The preparation, adoption and implementation of all license requirements, criteria and procedures shall comply with the provisions of the WTO's Agreement on Import Licensing Procedures dealing with non-automatic licensing.

Article 12 Prohibition, disfavorization and allocation of quotas

1. No public authority or normative act may establish, implement or allocate any quota on any type of external trade activity, except as specifically and explicitly is defined by this Law or a provision of an other normative act.

2. If such a provision specifically and explicitly authorizes the establishment, implementation or allocation of a quota that would otherwise be contrary to paragraph 1. of this Article, no such quota shall be established or implemented if, under the concerned circumstances, it is reasonably practicable to achieve the purpose thereof through the imposition of such additional tax duties as are reasonably calculated to achieve a level of protection equivalent to such use quota.

3. If, in accordance with the present law, a normative act that establishes a quota on import or export, or allocates Kosovo's share of an import or export quota established by another government, and an import license or export license requirement is established in connection with the implementation or allocation of such quota, the concerned authority shall allocate such licenses among all qualified applicants on the basis of objective, rational, and transparent criteria. Such criteria may not be established or implemented for, or in the furtherance of, any discriminatory or anti-competitive purpose. Any qualifications that an applicant must meet to qualify for such a license shall also be objective, rational and transparent and not established or implemented for, or in the furtherance of, any discriminatory or anti-competitive purpose.

4. No person that has been issued an import or export quota allocation or a license representing such an allocation shall transfer it or allow it to be used by another person or another enterprise.

Article 13

Conformity with customs legislation

1. Provisions of this Law shall be in compliance with customs legislation of Kosovo, for procedures and manner of implementation of the Law on External Trade.

2. Public authorities shall be obliged that together with customs to harmonize the attitudes and to define the technical rules for right implementation of legal provisions into force.

Article 14

Implementation of international agreements

1. The Government of Kosovo is hereby obliged to implement international agreements related to this Law.

2. If Kosovo is obligated to implement a provision of an international agreement that clearly requires the imposition of a restrictive measure that would otherwise be contrary to Article 4 of this law, the Government of Kosovo may issue, according to this Article, a normative act establishing such measure.

3. Any restrictive measure so established must strictly conform to the requirements of Article 5 of this law and, to the extent consistent with the fulfillment of the concerned obligation, shall be subject to any other applicable provision of this Law.

Article 15

Domestic treatment for imported goods

Goods imported into the territory of Kosovo shall enjoy a treatment not less favorable than goods which are produced or originate in Kosovo.

Article 16

Most favored nation treatment

1. Except as specifically otherwise provided by this Law or a normative act issued pursuant to this Law, Kosovo shall accord to goods that have been imported the treatment that is no less favorable than the treatment accorded to like goods which are produced in originate in Kosovo, including, but not limited to, treatment with respect to the level and application of all taxes and other internal charges, and treatment affecting the sale, purchase, transportation, processing, distribution or use of the goods.

2. If there is in effect a bilateral or multilateral international agreement that international law requires Kosovo to observe, and such agreement obligates Kosovo to accord most-favored nation treatment to importations of goods originating in a specified external area or areas, then, except as specifically otherwise provided in the present law or a normative act issued based on this Law or a a normative act issued in accordance with this Law, Kosovo shall accord most-favored-nation treatment to importations of such goods.

3. Where the importation of a good is entitled to most-favored nation treatment under paragraph 2. of this Article, Kosovo shall accord the importation of such good treatment that is equal to the most favorable treatment that Kosovo accords to the importation of any like good originating in any territory outside of Kosovo. Furthermore, any advantage, favor, privilege or immunity granted by Kosovo to any good that has been imported, shall be accorded immediately and on identical terms to any like good produced in Kosovo, or that is entitled to most-favored-nation treatment under paragraph 2. of this Article.

4. In determining the specific extent of the most-favored nation treatment required by paragraph 2. and 3 of this Article, no account shall be taken of or reference made to any preferential, privileged or other more favorable treatment accorded to the importation of goods from certain territories outside of Kosovo if such preferential, privileged or other more favorable treatment is required by an obligatory provision of a bilateral or multilateral free trade area or customs union agreement, or of an interim bilateral or multilateral agreement that is intended to further the formation of a free trade area or customs union, that international Law requires Kosovo to observe.

5. Nothing in paragraphs 2. and 3. of this Article shall be construed as prohibiting or granting of most favored nation treatment to imports of goods originating in territories outside Kosovo that are not covered by a bilateral or multilateral agreement.

Article 17
Technical requirements for imported goods

1. Imported goods are subject to meeting sanitary, phytosanitary and veterinary requirements, technical regulations, and conformity to quality standards in accordance with the applicable legislation.

2. Imported goods must meet the specified quality requirements before customs clearance, in accordance with the applicable legislation.

Article 18
Non-commercial imports and exports and other exemptions

1. Local and foreign natural persons may import and export goods for non-commercial purposes, in conforming quantities, the value of said goods and exports shall be set by Government decision.

2. Residents of Kosovo may freely export personal items for personal and family use, and items for household use in quantities and values suitable for non-commercial purposes.

3. Residents of Kosovo may send goods that have national, artistic, cultural or heritage value only under a license granted in accordance with the applicable legislation.

4. The Government of Kosovo is obliged to adopt a sub-legal act in accordance with paragraph 2. of this Article, to determine the procedures required for the shipment of goods abroad.

Article 19
Trade in services

1. The Government of Kosovo shall ensure that all measures of general application affecting trade in services are administered in a reasonable, objective and impartial manner.

2. The Government of Kosovo shall provide immediately and unconditionally to services and service suppliers of any country, treatment no less favorable than that it provides to all other countries.

3. Government of Kosovo may provide preferential treatment or other advances to services or service providers of adjacent countries in order to facilitate the exchange of services that are both locally produced and consumed in frontier zones.

Article 20
Trade policy coordination and facilitation mechanisms

1. Coordination mechanisms of Government of Kosovo on trade shall function in order to to establish, implement, review trade policies and legislation related to international trade, in order to simplify, harmonize and standardize the procedures in external trade transactions and to provide transparency all matters related to trade.
2. MTI shall approve operational procedures of coordination mechanisms.

Article 21
Penal Provisions

For any infringement of provisions of this Law or any regulation or a decision issued in effect of it, punitive measures may be taken in accordance to legal provisions in force.

Article 22
Transitional Provisions

1. The provisions that are listed in this law and in other legal acts and other international agreements shall remain in force in regard to external trade and are fully applicable and must be in accordance with WTO.
2. The Government and MTI is obliged to issue regulations to implement this Law within six (6) months from the date of entry into force of this Law.
3. Until the entry into force of sub-legal acts derived by this Law, the sub-legal acts issued by the Law on Foreign Trade Activity no.2002/6 shall apply.

Article 23
Abrogation Provision

With the entry into force of this Law, the Law on Foreign Trade Activity no.2002/6 shall be abrogated.

Article 24
Entry into force

This law shall enter into force fifteen (15) days after publication in the Official Gazette of Kosovo.

Law No.04/L-048
14 November 2011

Promulgated by Decree No.DL-050-2011, dated 02.12.2011, President of the Republic of Kosovo Atifete Jahjaga.