

**BULLETIN OF ACTS AND DECREES  
OF THE  
REPUBLIC OF SURINAME**

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**ACT of July 8, 2003, laying down new rules pertaining to external visible trade  
(Visible Trade Act)**

**THE PRESIDENT OF THE REPUBLIC OF SURINAME**

Having taken into consideration that - in connection with the liberalisation of trade movements and the gradual lifting of the restrictions applying to the external visible trade ensuing therefrom - it is desirable to lay down new regulations pertaining to external visible trade;

Having heard the Council of State and after the approval of the National Assembly, has ratified the act below:

**Definitions**

**Article 1**

For the purposes of this act and the regulations founded thereon, the following terms shall have the following meanings:

- a. restriction: import and export licenses, quotas, as laid down in statutory regulations and administrative resolutions as referred to in article 3 up to 5 inclusive of this act;
- b. certificate: evidence in writing that a good or a production process is in agreement with a technical regulation or standard, issued by a recognised government or private institution in accordance with a certification system;
- c. permanent secretary: the permanent secretary of Trade and Industry;
- d. dumping: bringing at the Surinamese market goods at a price below their normal value, when the price of the exported good is lower than the comparable price usually applied in normal commercial

- transactions for similar goods in view of the use or consumption in the exporting country;
- e. exporter: the natural or legal person in whose name the export is done or who is responsible for the export concerned;
  - f. goods: movable tangible property within the meaning of article 565 of the Civil Code of Suriname, with the exception of gold, precious metals, instruments of payment, monetary instruments, securities and documents that embody receivables;
  - g. importer: the natural or legal person in whose name the import is done or who is responsible for the import concerned;
  - h. import: the introduction into free trade in Suriname of goods, directly from abroad and whether or not after previous storage in bonded warehouse, including transit to other countries, with the exception of direct transit by ship or airplane, in the process of which the goods are not brought outside the means of transportation and said means of transportation does not stay for longer than twelve hours within Surinamese territory;
  - i. measures: prohibitions or restrictions by virtue of this act;
  - j. Minister: the Minister in charge of trade;
  - k. Negative list: the list of goods as referred to in article 3 paragraph 3 of this act;
  - l. body: the agency in charge of certain authorities by virtue of this act or its implementing regulations;
  - m. rules of origin: statutory regulations and administrative resolutions laying down general rules to establish the country of origin of a good;
  - n. sanitary and phytosanitary measures: all measures related to:
    - a. protecting the health of man, animal and plant in Suriname against the risks pertaining to the appearance or the spreading of diseases or organisms that cause diseases;

- b. protecting the health of man, animal and plant in Suriname against the risks pertaining to the use of pesticides, toxic substances or organisms that cause diseases and may occur in food and beverages;
  - c. protecting the public health in Suriname against risks pertaining to diseases caused by plants, animals or derivatives, as well as against the risks pertaining to the appearance or the spreading of harmful organisms;
  - d. the prevention or the restriction of other damage in Suriname that is caused or may be caused by the appearance or the spreading of harmful organisms.
- o. standards: documents approved by a recognised government or private agency, that in view of an ongoing application, lays down rules, guidelines or features for products, production methods or procedures; standards are as such not binding.
- p. technical regulations: mandatory rules as regards features of a product, a production method or procedure in the area of for example quality, results, safety and measurements;
- q. export: bringing out of the free trade in Suriname, inclusive of delivery from bonded warehouse for export;
- r. license: a resolution of a body that permits a certain act to be performed with due observance of certain conditions;
- s. President: the President of the Republic of Suriname;

### **General delegation provision**

#### **Article 2**

Without prejudice to the provisions of this act that prescribe a state decree, further rules by or pursuant to state decree may be laid down as regards the subjects provided for in this act.

## **Free movement of goods**

### **Article 3**

1. Without prejudice to the provisions of paragraphs 2 and 3, the trade in goods with other countries is free.
2. By state decree the following measures may be taken:
  - a. general measures that are justified on account of the protection of the public order, public morality, state security, public safety, the international law and order, the health and the life of persons, animals or plants, the environment, national artistic (historical and archaeological) possessions and industrial and commercial property;
  - b. special measures, which ensue from sanitary or phytosanitary regulations, technical regulations for goods and international standards, anti-dump regulations and indemnity regulations.
3. Pursuant to the provisions laid down in paragraph 1 under 1 of this article, by state decree a negative list will be drawn up and the following shall apply to the import and export of goods:
  - a. goods, the import and export of which is forbidden;
  - b. goods, the import and export of which is subject to a license;
  - c. goods, the import and export of which is subject to a special treatment;

## **Sanitary and phytosanitary measures**

### **Article 4**

1. In order to protect the health and the life of man, animal and plant by or pursuant to state decree, on the basis of scientific principles, international standards, guidelines or recommendations to that effect, sanitary or phytosanitary measures may be taken among other things for the treatment of animals, plants and food products.
2. By or pursuant to state decree, rules may be laid down as regards the sanitary and phytosanitary certificates to be used in the external visible trade.

3. By or pursuant to state decree a body will be designated that will be charged with sanitary and phytosanitary certificates; at the same time rules will be laid down as to the procedures of information supply, the tariffs for inspection and other matters pertaining to the rendering of sanitary and phytosanitary services by virtue of this article.

**Measures in pursuance of technical regulations and international standards for goods** (*Dutch text in fact states: Measures in pursuance of technical regulations for goods and international standards*)

**Article 5**

1. In order to protect the state security, the quality of goods, the health and the life of man, animal or plant and the environment, pursuant to technical regulations and international standards for goods as referred to in article 3 paragraph 2 under b, measures may be taken pertaining to the import and export of goods.
2. By or pursuant to state decree, rules may be laid down as regards the certificates for goods in international trade movements.
3. By or pursuant to state decree, a body may be designated that will be charged with the issuing of certificates. At the same time rules may be laid down as to the procedures of information supply, the tariffs for inspection and other matters pertaining to the rendering of services by virtue of this article.

**Anti-dumping measures**

**Article 6**

1. In order to protect sectors of the economy, anti-dumping measures may be taken as referred to in article 3 paragraph 2 under b, against the import of a certain good or certain groups of goods, if the import thereof would gravely harm an existing business sector or slowdown the starting up of a new business sector.
2. The measures referred to in paragraph 1 of this article shall be introduced for a certain period of time and shall be adjusted in such manner that gradual lifting shall take place proportionally to the improvement of the circumstances.

3. The measures shall after the period of time referred to in paragraph 2 of this article, become invalid by operation of law, provided that they will be lifted at an earlier date, if, taking into consideration the circumstances, it is no longer justified to apply said measure.
4. By state decree regulations may be given as to the conditions and the procedure for the introduction of anti-dumping measures.

### **Indemnity measures**

#### **Article 7**

1. In order to protect the sectors of the economy and the industries related thereto, indemnity measures as referred to in article 3 paragraph 2 under b may be taken, if it is established that a certain good is imported in increasing amounts and in such manner that the domestic industry that produces similar or competitive goods, is gravely disadvantaged or is threatened to be disadvantaged as a result thereof.
2. The measures referred to in paragraph 1 of this article shall be introduced for a certain period of time and shall be adjusted in such manner that gradual lifting shall take place proportionally to the improvement of the circumstances.
3. The measures shall after the period of time referred to in paragraph 2 of this article, become invalid by operation of law, provided that they will be lifted at an earlier date, if, taking into consideration the circumstance, it is no longer justified to apply said measure.
4. By or pursuant to state decree regulations may be given as to the conditions and the procedure for the introduction of indemnity measures.

### **Negative list**

#### **Article 8**

1. The Negative List referred to in article 3 paragraph 3 shall include the following in connection with the goods mentioned in the categories a. up to c. inclusive:
  - a. the identification number in accordance with the internationally applied nomenclature for goods;

- b. a specification of the good;
  - c. the basis of the measure;
  - d. the legal basis of the prohibition or the restriction, with at the same time mentioning of agreements with other powers and with international institutions of which Suriname is a member and that pertain to the trade in the good concerned;
  - e. where appropriate, the body or agency in charge of issuing the certificate.
- 2. The recommendation to introduce, amend or lift a measure, shall be done by the Minister and the Minister(s) involved as well.
  - 3. In case it is taken into consideration to introduce, amend or lift a measure and an immediate provision is required, in consultation with the President the Minister may by resolution amend the Negative List; said resolution shall remain in force, until a state decree that concerns the same subject, enters into force; if this state decree does not enter into force within a term of four months after the coming into force of the resolution, the resolution shall become invalid by operation of law as of the day following the expiration of the term.

### **Application for a license**

#### **Article 9**

- 1. In case a license is required for the import or export of a good, said license shall have been obtained prior to the import and export respectively.
- 2. Applications for licenses by virtue of this act shall be submitted to the Import, Export and Foreign Exchange Control Department of the Ministry of Trade and Industry.
- 3. Licenses shall be granted by the Permanent Secretary.
- 4. Applications for licenses shall be decided on within a term of:
  - maximally 15 days following the submission of the application for the license, in case the handling of the application is done according to the FIFO (fcfs)-method

- maximally 30 days following the submission of the application for the license in case of a simultaneous handling.
5. The decision on the application for the license shall be substantiated and be notified to the applicant.
  6. Conditions may be attached to a license.
  7. The Permanent Secretary may revoke a license if the data obtained appear to be incorrect or incomplete in such manner that another decision would have been taken on the application, had the correct circumstances been fully known during the judgement thereof; the revocation shall be notified in writing to the applicant, stating the reasons thereto.
  8. The Permanent Secretary may jointly revoke the licenses belonging to one of the groups designated by him, if in his discretion there is serious cause thereto; a decree laid down by virtue of this article shall be published in the Bulletin of Acts and Decrees of the Republic of Suriname.

## **Objections**

### **Article 10**

1. The person whose interest is directly affected by a decision taken by virtue of this act and that does not contain a generally binding rule, may file objections thereto in writing with the Permanent Secretary.
2. This objection shall be submitted within one month after the challenged decision has been brought to his notice.
3. The objection referred to in paragraph 1 shall be decided on within one month following the date of submission.
4. If the term referred to in paragraph 3 of this article has lapsed without a decision having been taken, the interested party may appeal to the Minister.



## **Appeal**

### **Article 11**

1. The person who does not agree with the decision of the Permanent Secretary on the notice of objection filed or with the fact that no decision has been taken, may appeal in writing to the Minister.
2. The appeal shall be submitted within one month after the challenged decision has been brought to his notice or within one month after the terms referred to in article 9 paragraph 4 and article 10 paragraph 3 have lapsed.
3. The appeal as referred to in paragraph 1 shall be decided on within one month following the submission thereof.
4. The decision referred to in paragraph 3 shall state the grounds on which it is based and shall immediately be brought to the notice of the importer or exporter and the Permanent Secretary and this by registered letter.
5. If the judgement serves to fully or partially set aside the decision appealed against, the Permanent Secretary, insofar as necessary, shall provide for the case again with due observance of the decision of the Minister.
6. A decision of the Minister as referred to in paragraphs 3 and 4 of this article shall be open for appeal with the President. Paragraphs 1 up to 5 inclusive of this article shall apply by analogy as far as the procedure and the terms are concerned.
7. By or pursuant to state decree further rules may be laid down as regards the licensing procedure.

## **Economic Offences**

### **Article 12**

Violation of regulations issued by or pursuant to this act shall be deemed economic offences in pursuance of the Economic Offences Act (Bulletin of Acts and Decrees 1986 no. 2, as recently amended by Bulletin of Acts and Decrees 1989 no. 42).

## **Transitional provisions**

### **Article 13**

1. Licenses, exemptions or certificates with the conditions and obligations attached thereto and granted by virtue of the 1954 Import and Export Regulation (Bulletin

- of Acts and Decrees 1954 no. 17, as recently amended by Bulletin of Acts and Decrees 1975 no. 64 applicable text Bulletin of Acts and Decrees 1981 no. 43), insofar as they have not ceased to apply, shall be deemed to have been granted by virtue of this act.
2. All forms issued by virtue of the 1954 Import and Export Regulation (Bulletin of Acts and Decrees 1954 no. 17, as recently amended by Bulletin of Acts and Decrees 1975 no. 64 applicable text Bulletin of Acts and Decrees 1981 no. 43) shall remain valid until they expire.

### **Final Provisions**

#### **Article 14**

Upon the coming into force of this act, the 1954 Import and Export Regulation (Bulletin of Acts and Decrees 1954 no. 17, as recently amended by Bulletin of Acts and Decrees 1975 no. 64 applicable text Bulletin of Acts and Decrees 1981 no. 43) shall be rescinded.

#### **Article 15**

1. This act may be cited as the Visible Trade Act.
2. It shall be promulgated in the Bulletin of Acts and Decrees of the Republic of Suriname.
3. It shall enter into force on a date to be so determined by the President.
4. The Minister in charge of trade shall be charged with the implementation of this act.

Given in Paramaribo on July 8, 2003

R.R. VENETIAAN

Issued in Paramaribo, July 16, 2003

The Minister of Home Affairs

U.JOELLA – SEWNUNDUN

**ACT of July 8, 2003, laying down new rules pertaining to external visible trade  
(Visible Trade Act).**

**EXPLANATORY MEMORANDUM**

**I. General explanation**

This draft legislation serves to replace the 1954 Import and Export Regulation (Bulletin of Acts and Decrees 1954 no. 17, as recently amended by Bulletin of Acts and Decrees 1975 no. 64 applicable text Bulletin of Acts and Decrees 1981 no. 43) and the implementing regulations based thereon.

**1. The 1954 import and export regulation**

The point of departure of the 1954 Import and Export Regulation was that the possibility was created, by state decree, to prohibit, restrict or bind to rules, the import and export of certain goods or all goods, in the interest of the economy, the state security or the international law and order and in connection with international agreements (article 2 1954 Import and Export Regulation).

In order to implement the 1954 Import and Export Regulation, on September 4, 1967 by Government Decree (Bulletin of Acts and Decrees 1967 no. 67) goods were designated, of which the import was prohibited, restricted, or bound to rules. In order to enhance the agrarian production, the industry and the trade, the government decided to reform the agrarian sector and the trade policy. Within the reform plan of the government – which as far as the trade policy is concerned is aimed at liberalisation of the import and export of goods, with as main objective facilitating the movement of goods – various measures had to be taken including the formalisation of a negative list of goods, the import or export of which was prohibited or was subject to prior approval. Within that framework the Government Decree of September 4, 1967 (Bulletin of Acts and Decrees 1967, no. 67 as recently amended by Bulletin of Acts and Decrees 1998 no. 43) was rescinded and on September 1, 1999, the Negative List Decree (Bulletin of Acts and Decrees 1999 no. 34 as recently amended by Bulletin of Acts and Decrees 2000 no. 59) entered into force, with the following categorisation of goods being introduced:

1. goods, the import and export of which is forbidden, unless the Minister of Trade and Industry, in consultation with the President, has granted permission thereto;
2. goods that may be freely imported and exported, on the condition that a license has been granted for those purposes;
3. goods, the import and export of which requires specific acts;
4. goods that may be freely imported and exported.

The 1954 Import and Export Regulation in theory offers the possibility to introduce by state decree, prohibitions and restrictions as regards the import and/or export of all goods without the importer or exporter being required to report any reason thereto. The fact that the “national economy” was included in the 1954 Import and Export Regulation as a reason to be able to introduce prohibitions and restrictions pertaining to the import and export of goods, made it possible that in the past the Surinamese government could introduce on economic grounds, a large number of restrictions to protect local producers against external competition. Said restrictions, however, may have a cost-increasing effect on the consumer and a restrictive influence on the trade.

In case a license is required for the import and/or export of a certain good, under the 1954 Import and Export Regulation, importers and exporters lack the right to appeal if their application has been denied. In addition the current licensing system was perceived as not being sufficiently transparent, which led to uncertainties for importers and exporters.

Furthermore in accordance with the 1954 Import and Export Regulation, by state decree regulations may be issued on consent fee to be levied, which in accordance with article 1 paragraph 13 of the 1947 Foreign Exchange Regulations (Bulletin of Acts and Decrees 1947, no. 136 as recently amended by Bulletin of Acts and Decrees 1984 no. 104) may be levied by institutions that have been assigned powers pertaining to foreign exchange transactions by the Foreign Exchange Commission. Until September 1, 1999, the Permanent Secretary of the Ministry of Trade and Industry or for him, the Head of the Import, Export and Foreign Exchange Control Department of this Ministry, was authorised by the Foreign Exchange Commission to grant licenses (E-82) on behalf of

the Foreign Exchange Commission among other things to enter into agreements to make payments for goods to be imported (article 19, 1947 Foreign Exchange Regulation; General Decree of No. 1). By General Decree of September 1, 1999, no. 207, the Foreign Exchange Commission withdrew this authorisation and granted a general license for among other things making payments for goods to be imported. The power of the Minister of Trade and Industry to levy consent fee consequently does not apply anymore. Foregoing review shows that the 1954 Import and Export Regulation does not offer importers and exporters sufficient guarantees and is in addition not in agreement with recent developments pertaining to movement in goods, nationally and internationally. The 1954 Import and Export Regulation is also not in agreement with the basic trade principles that ensue from the 'Marrakech Agreement Establishing the World Trade Organisation (the WTO agreement)', effected in Marrakech on April 15, 1994, hereinafter called the "WTO-agreement", the 'Treaty establishing the Caribbean Community and Common Market' effected in Chaguaramas on July 4, 1973 and the 'Treaty establishing the Caribbean Community including the Caricom Single Market and Economy', hereinafter "Caricom Agreement" effected on May 10, 2001, the 'ACP-EU Partnership Agreement' hereinafter "Cotonou Agreement" effected in Cotonou on June 23, 2000 and the Draft-Free Trade Area of the America's Agreement, hereinafter: 'Draft FTAA Agreement'.

## **2. The WTO Agreement**

Suriname has been a member of the GATT ever since 1978 and on April 15, 1994, our country signed the Final Act of the Uruguay Round (Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations) and the WTO Agreement. Annex 1A of the WTO Agreement among other things comprises 13 multilateral agreements about the visible trade (GATT 1994, Agreement on Agriculture, Agreement on the application of Sanitary and Phytosanitary Measures, Agreement on Textiles and Clothing, Agreement on Technical Barriers to Trade, Agreement on Trade-related Investment Measures, Agreements on the Implementation of Article VI and VII of the GATT 1994, Agreement on the Preshipment Inspection, Agreement on Rules of Origin, Agreement on Import-Licensing Procedures, Agreement on Subsidies and Countervailing Measures,

Agreement on Safeguards). The 13 multilateral agreements form an integral part of the WTO Agreement and are binding to all WTO member countries (article II WTO Agreement). Each member state has to adjust its laws, regulations and administrative procedures in accordance with the obligations ensuing from the multilateral agreements attached (article XVI paragraph 4 WTO Agreement).

Reservations to the multilateral agreements may only be made in case the multilateral agreement allows this (article XVI paragraph 5 WTO Agreement). As a full member of the WTO, Suriname is bound to all 13 multilateral agreements.

One of the main objectives of the Uruguay Round was to reach a great extent of trade liberalisation by tariff reductions and the lifting of other trade barriers. WTO member countries are obliged to implement their trade legislation and trade policy in pursuance of the following principles of the WTO Agreement:

- trade without discrimination;
- predictable and increasing access to the market;
- fair competition;
- encouraging economic reform and development;
- transparent trade policy;
- efficient settlement of disputes.

In order to examine to what extent WTO member countries fulfil their obligations ensuing from the WTO Agreement, the trade policy of WTO member countries is by turns subjected to Trade Policy Reviews.

### **3. The Caricom Agreement**

On July 4, 1995 Suriname joined the Caricom. The main objective of the trade policy of the Caricom is establishing an ongoing growth of the international trade among the Caricom member countries, article 78 of the Caricom agreement. In order to realise this goal the Caricom among other things aims at a full integration of the national markets of

all member countries, more in particular the Caricom Single Market and Economy (CSME).

In order to realise economic integration among the Caricom member countries in an accelerated manner, the trade liberalisation regime is applied to trade among Caricom member countries. A trade protection regime is applied (article 82 of the Caricom Agreement) to the trade with third countries by means of the Common External Tariff.

The trade liberalisation regime is based on introducing and maintaining within the CSME, a regime of free movement of goods (and services) (article 79 Caricom Agreement). This among other things implies the following:

- Within the CSME there will be a free transit of goods without any unnecessary delay or restrictions; goods will only be subject to costs of transportation, shipment and other services rendered (article 86 Caricom Agreement);
- Caricom member countries ensure that equal regulations, formalities and costs will apply and equal services will be provided to all other Caricom member countries as regards the transit of goods (article 86 Caricom Agreement);
- Measures that may have a disruptive effect on competition and the free movement of goods and services and that otherwise nullify advantages that other member countries enjoy under the Caricom Agreement, shall be lifted (article 79 of the Caricom Agreement)
- Caricom member countries shall not introduce or maintain restrictions for the import and export of goods from respectively to countries of the Caricom, with the exception of restrictions that are permitted in pursuance of the Caricom Agreement (grave prejudice to domestic producers and dumping) (articles 78, 91, 92 and 150 of the Caricom Agreement).
- In trade transactions with third-countries Caricom member countries shall not introduce or maintain measures that are more advantageous for third-countries than for other Caricom member countries.

The trade liberalisation regime will have to lead to:

- elimination of all tariffs, quotas and other non-tariff impediments within the CSME;
- the development and harmonisation of standards in order to guarantee the availability of the goods traded;
- suitable rules of origin to regulate the trade among member countries.

## **5. The Cotonou Agreement**

Suriname has been a member of the ACP countries (countries in Africa and the Caribbean and the Pacific islands) since 1975 and is consequently party to the Lomé convention between the European Union (EU) and the ACP countries. Ever since June 23, 2000 this cooperation was continued in the Cotonou convention.

The cooperation between the EU and the ACP countries comprises on the one hand financial and technical cooperation and on the other hand economic and commercial cooperation. The preferential tariffs that were introduced under the Lomé convention as regards the import in the EU in favour of ACP countries, will apply until no later than December 31, 2007 and will thereafter be replaced by Economic Partnership Agreements. Under the Cotonou Agreement the economic and commercial cooperation aims at promoting among ACP countries an international trade regime, the conditions of which are in agreement with the provisions of the WTO Agreement (article 34 paragraph 4 Cotonou Agreement).

The Economic Partnership Agreements will therefore have to be adjusted to the provisions of the WTO Agreement and aim at lifting trade barriers between on the one hand the EU and its member countries and on the other hand the ACP countries (articles 36 paragraph 1 and 37 paragraph 7 Cotonou Agreement). On the part of the EU liberalisation will have to be based on establishing and improving market access for the ACP countries by means of revising the rules of origin (article 37 paragraph 7 of the Cotonou Agreement).



## **6. Draft FTAA Agreement**

Suriname is one of the 34 countries that participate in the FTAA negotiations that should lead to the establishment of a free trade area for the Americas in 2005 (FTAA). The goal of the FTAA is that trade and investment barriers in the region are lifted in a progressive manner. Guiding principle of these negotiations is that the FTAA Agreement – which must be signed no later than January 2005 – should be in agreement with the provisions of the WTO Agreement.

## **7. The Visible Trade Act**

Against the background of the liberalisation concept referred to above, the trade policy of the Surinamese government is among other things aimed at promoting a transparent, a stable and an as free as possible trade and investment climate, with trade barriers being further removed. Within that framework current statutory regulations have to be evaluated and if necessary amended, new laws have to be introduced and agreements that Suriname made as regards liberalisation, have to be implemented.

The draft of the Visible Trade Act aims at laying down a regulation for the external visible trade that implies an implementation of the most important obligations that ensue from international treaties Suriname is a party to. In this draft the point of departure is a positive system, with the movement in goods being free in principle. The right of the government to introduce prohibitions and restrictions with regard to the external visible trade is, however, for various reasons necessary and internationally justifiable. The Visible Trade Act will create a framework within which the government is able to introduce prohibitions and restrictions with regard to the external visible trade, for justifiable reasons. For example as far as aforesaid powers of the government are concerned, the draft distinguishes between general reasons (such as the protection of the public order, good morality, public safety, the life and health of man, animals and plants, the environment, etc) and special measures (such as: sanitary and phytosanitary measures, anti-dumping measures, etc.) that aim at a special protection of a particular interest (public health, quality, domestic economy).

The concept of the special measures is based on international treaties. Although as regards to special measures in most cases no laws and regulations exist as yet in Suriname, the choice has been made, however, to include these measures in the draft to create the possibility to effectuate this at a later stage.

The system of the Negative List Decree (Bulletin of Acts and Decrees 1999, no. 34), which regulates goods according to the following division:

forbidden, attached to a license, regulated and free goods, remains in force, be it that the 'Negative List' according to this draft legislation contains specific data, one thing and the other in agreement with the obligations ensuing from the WTO Agreement. The Visible Trade Act furthermore includes a liberal licensing system, with the possibility of objection and appeal.

## **II. Article by Article Explanation**

### **Article 1**

#### **Definitions**

In order to describe the various terms, where possible harmonisation with nationally and internationally used definitions was sought:

- |    |              |   |
|----|--------------|---|
| a. | restriction: | Article XI GATT 1947;   |
| b. | certificate: | draft FTAA Agreement, Agreement on Technical Barriers to Trade, article 12 (Definitions);   |
| d. | dumping:     | - Article 2 Agreement on implementation of article VI of the GATT 1994<br>- Article 126 Caricom Agreement;  |
| e. | exporter:    | definition derived from article 1, 1965 Plant Protection Act (Bulletin of Acts and Decrees 1965 no. 102, as recently amended by Bulletin of Acts and Decrees 1986 no. 116); |
| f. | goods:       | -article 565 Suriname Civil Code;   |

- article 3 paragraph 11, 1947 Foreign Exchange Regulation;
- g. importer: article 1, 1965 Plant Protection Act (Bulletin of Acts and Decrees 1965 no. 102, as recently amended by Bulletin of Acts and Decrees 1986 no. 116);
- h. import: article 1, 1965 Plant Protection Act (Bulletin of Acts and Decrees 1965 no. 102, as recently amended by Bulletin of Acts and Decrees 1986 no. 116);
- i. measures: derived from Article XI GATT 1947;
- m. rules of origin: article 1 Agreement on Rules of Origin;
- n. sanitary and phytosanitary measures: Annex A of Agreement on the application of Sanitary and Phytosanitary Measures;
- o. standards:
  - Annex A of Agreement on the application of Sanitary and Phytosanitary Measures
  - Article 67 paragraph 6 sub b Caricom Agreement
  - draft FTAA Agreement, Chapter on Technical Barriers to Trade, article 12 (Definitions)
- p. technical regulations:
  - Annex 1 of Agreement on Technical Barriers to Trade;
  - Article 67 paragraph 6 sub b, Caricom Agreement;
  - draft FTAA Agreement, Chapter on Technical Barriers to Trade, article 12 (Definitions);
- q. export: Article 1, 1954 Import and Export Regulation;
- r. license: Instructions for regulations technique (Bulletin of Acts and Decrees 1992 no. 75).

## **Article 3**

### **Free Movement of Goods**

#### **Paragraph 1**

This article comprises the principle mentioned in the general reviews of the positive system of the movement of goods. Impediments for the movement of goods by government measures are basically forbidden.

#### **Paragraph 2**

The import or export of goods may, however, be restricted or forbidden to protect the interests mentioned in this paragraph. The interests mentioned under a. mainly ensue from the Constitution. The protection of the following interests is directly based on the Constitution: public order, public morality, state security, the health of persons, the national artistic (historical and archaeological) property.

The following provisions from the Constitution are important in this respect: all who are within the territory of Suriname shall have an equal claim to protection of person and property (article 8, Constitution); everyone has the right to health (article 36, Constitution); the law shall guarantee that the method in which trade and industry are conducted shall not be contrary to national objectives and public interest, notably public order, health, morality and state security (article 42, Constitution); the State shall save and protect the cultural heritage of Suriname, shall promote its preservation and shall encourage the use of science and technology in the context of the national development objectives (article 47, Constitution).

The interests ‘environment’ and ‘industrial and commercial property’ were included in anticipation of the legislation to be introduced to that effect. As conditions or licensing requirements ensuing from the legislation and regulations to be introduced in the area of intellectual property rights, although necessary, might adversely influence trade, for these purposes separate grounds have been included (article 40 Agreement on Trade-related Aspects of Intellectual Property Rights).

The protection of ‘the life and the health of animal and plant’ is an interest that constitutes the basis of already existing acts and regulations, such as the 1965 Plant Protection Act (Bulletin of Acts and Decrees 1965 no. 102, as recently amended by Bulletin of Acts and Decrees 1986 no. 116) and the 1954 Hunting Act (Bulletin of Acts and Decrees 1954 no. 25, as recently amended by Bulletin of Acts and Decrees 1994 no. 54).

The WTO Agreement and the Caricom Agreement allow member countries under certain circumstances and conditions to introduce restrictions or prohibitions with regard to the import and/or export of goods and this by means of special measures. These measures have been included in this article under paragraph 2 under b.

#### **Article 4**

##### **Sanitary and phytosanitary measures**

The greater part of the legislation and regulations in Suriname related to public health, dates from the fifties and the sixties. To prevent that very low-quality products are imported into Suriname and to increase the quality of local products, it is of eminent importance that in Suriname, the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) is complied with. Being a member of the FAO and the World Health Organisation, where similar norms are applied, Suriname is not unfamiliar with the norms in question. In pursuance of article 2 of the SPS-Agreement, member countries of the WTO may take sanitary and phytosanitary measures to treat animals, plants and food products to protect the life and the health of man, animal and plant. The SPS Agreement does not prescribe which protective measures and food safety norms have to be applied.

The sanitary and phytosanitary measures may pertain to inspection, minimum requirements for abattoirs, accommodation for raised animals, treatment in quarantine of imported animals or plants from risk areas, including relevant requirements pertaining to the transport of animals or plants or the material required for their survival during the transport, final product criteria, procedure and production methods, tests, certification and

approval methods, provisions related to relevant methods for statistics, acquiring samples and risk assessment, packaging and labelling requirements, that are directly related to food safety and conditions for the use of pesticides.

Due to the nature of sanitary and phytosanitary measures, maintaining such rules may result in a restriction of the trade. The compliance with the SPS Agreement implies a restriction of the use of unjustified sanitary and phytosanitary measures with trade protection as the ultimate goal.

The sovereign right that accrues to each state to establish a sanitary and phytosanitary system, may not be misused in favour of protective objectives and may not result in unnecessary barriers for the external trade. The same sanitary (human and animal health) and phytosanitary (health of plants) measures that apply to imported products must be used for the locally produced products.

In order to harmonise the national sanitary and phytosanitary measures as extensively as possible, member countries are encouraged to harmonise their measures with international standards, guidelines and existing recommendations (article 3 SPS Agreement). Expectations are that the member countries accept each other's sanitary and phytosanitary measures when the exporting country shows the importing country that its measures are sufficient to protect public health in the country concerned. To promote a transparent system, the national sanitary and phytosanitary measures need to be reported to the WTO.

This will allow Suriname to take cognisance of the sanitary and phytosanitary measures of other WTO countries.

The goal of the SPS Agreement is to increase the transparency of the sanitary and phytosanitary measures. States must lay down their measures on the basis of appropriately established risks involved. If so desired, states may make known which factors they took into consideration, which establishment procedures were taken into consideration and which degree of risk they consider acceptable. In those cases in which the local sanitary and phytosanitary requirements differ from those recommended by

international standards, scientific data must be available to prove the validity of the difference.

Member states of the SPS Agreement must guarantee that their sanitary and phytosanitary measures are adjusted to sanitary or phytosanitary characteristics of the area of origin and the destination of the product. States are obliged to inform other states of new sanitary and phytosanitary measures or amendments thereto, which may influence the trade. They are also obliged to set up an office where information can be obtained about new or amended measures. These offices are called Enquiry Points.

In pursuance of the articles 13, 14 and 16 of the “1991 Decree on the Job Description of Departments” (Bulletin of Acts and Decrees 1991, no. 58) the Ministry of Agriculture, Animal Husbandry and Fisheries, the Ministry of Public Health and the Ministry of Trade and Industry, in view of their job description, are responsible for establishing sanitary and phytosanitary services. It is important that the necessary tools are available and that the ministries are enabled to perform the necessary inspections and analyses. For those reasons it is necessary that commercially acceptable tariffs are charged to perform inspections, so that the sanitary and phytosanitary department is financially self-supporting.

## **Article 5**

### **Measures on grounds of technical regulations and international standards**

International standards and systems to establish that certain standards are complied with, may significantly contribute to promoting an efficient production. They may also promote the transfer of technology of developed to developing countries and facilitate the supervision of the international trade. In view thereof the development of international standards and systems to establish that certain standards have to be complied with (CA systems), should be encouraged.

International standards and CA systems may differ from country to country, so an entrepreneur may be forced to adjust his production process to the different standards in

the different countries. Not taking into consideration the cost-increasing effect, unnecessary standards and technical regulations lead to trade barriers. The WTO Agreement on Technical Barriers to Trade (TBT Agreement) aims at preventing technical regulations, standards, inspection and conformity assessment procedures, from constituting trade barriers. The TBT Agreement encourages countries, where necessary, to apply international standards.

Technical regulations and standards indicate which characteristics are attached to a certain product or production process. Technical regulations are mandatory, standards are not. Technical regulations may not impose more restrictions than necessary in view of the goal aimed at by the regulation concerned and the risks involved if the regulations are not complied with.

The ministries concerned (the Ministry of Trade and Industry, the Ministry of Agriculture, Animal Husbandry and Fisheries, the Ministry of Public Health and the Ministry of Labour, Technological Development and Environment) will have to take decisions on the level of the standards that the Surinamese goods should meet.

International standards may be considered minimum requirements and serve as a basis for legislation about agrarian products and foodstuff that may be promulgated on behalf of the Ministry of Agriculture, Animal Husbandry and Fisheries, the Ministry of Public Health and the Ministry of Labour, Technological Development and Environment.

In pursuance of article 2, paragraph 11 of the TBT Agreement, countries are obliged to publish their technical regulations, or to make these available in such manner that interested parties can take cognisance thereof. In order to set standards and to publish them, an agency, a Surinamese Bureau of Standards, must be established, so that it is clear which essential features the goods traded in Suriname, must meet.



## **Article 6**

### **Anti-dumping measures**

Although according to different WTO agreements various trade barriers have to be lifted, it is truly possible that other official measures are applied to protect the domestic products against international competition. Article VI General Agreement on Trade 1994 (GATT 1994) grants member countries the right to apply anti-dumping measures. The Agreement on implementation of Article VI (Anti Dumping) (Anti-Dumping Agreement) lays down rules on the application of Article VI GATT 1994.

Member countries of the Anti-Dumping Agreement are obliged, prior to introducing anti-dumping measures, to investigate. The Anti-Dumping Agreement lays down rules about the method of determining dumping, which criteria to apply upon determining whether dumping causes damage to a domestic industry, the procedures that have to be followed in the investigation to establish dumping and the introduction and the period of validity of anti-dumping measures. Anti-dumping measures cannot be introduced for an indefinite period of time.

At this moment Suriname does not have an anti-dumping act or regulation. Although the Anti-Dumping Agreement does not make it compulsory to introduce a national anti-dumping act or regulation, in any case implementing the investigation procedure in the legislation and regulation in Suriname is, however, desirable as the investigation is mandatory in order to set anti-dumping measures, when the dumping is done by a WTO member country.

## **Article 7**

### **Indemnity measures**

Article XIX GATT grants member countries the authority to introduce indemnity measures to protect a domestic industry against an unforeseen increase of the import of goods or certain groups of goods, with consequently a domestic industry being prejudiced or threatened to be prejudiced.

According to the WTO Agreement on Safeguards (Safeguard Agreement) a country, prior to setting an indemnity measure, should establish by means of an investigation that goods are imported in such big amounts and under such conditions that the domestic industry that produces equal or similar goods, is gravely prejudiced (article 2 Safeguard Agreement). The Safeguard Agreement lays down rules for the investigation, including a public announcement of hearings and other means with interested parties getting the opportunity to produce evidence about among other things to what extent a measure serves the public interest (article 3 Safeguard Agreement). The Safeguard Agreement furthermore lays down criteria on the basis of which 'the grave prejudice' has to be established and which factors have to be taken into consideration in establishing the effect of the import (article 4 Safeguard Agreement).

The indemnity measure may only be applied insofar as this is necessary to prevent grave prejudice or to restore and make adjustments (article 5 Safeguard Agreement).

In the case of urgent circumstances, a provisional indemnity measure can be introduced on the basis of a prior conclusion that damage was suffered. A provisional measure may be introduced for the period of 200 days only (article 6 Safeguard Agreement). The Agreement furthermore lays down terms for indemnity measures. In general a term of validity of four years applies, with the possibility of extension to maximally eight years. The competent national authorities must in that case have established the ongoing necessity of the measure and there must be proof available that the industry recovers again.

As the WTO provisions about the investigation pertaining to this measure have not been implemented in Surinamese law, this article provides for the possibility to regulate the procedure for the investigation to be conducted, until legislation to that effect has been introduced.

## **Article 9-11**

### **Licensing Procedure**

Despite the fact that import licenses can be very useful for certain purposes, the international trade can be hampered if import-licensing procedures are applied in an incorrect manner. Therefore the import-licensing procedures must be implemented in a transparent and predictable policy that does not restrain trade. In order to achieve this goal, within the licensing policy the implementation of the relevant measures will have to be a task that does not burden the administration more than is necessary.

As regards the import-licensing procedures, the WTO Agreement lays down that states are obliged to publish sufficient information for the traders, so that they know the grounds on which licenses are granted.

The information that needs to be published concerns the rules and all information about the manner in which persons, legal persons and institutions can become eligible for a license, the manner in which the administrative bodies have to be approached, etc. (articles 1 up to 5 inclusive of the agreement with regard to the import-licensing procedure).

Countries that apply a maximum as regards the issue of certain licenses, will have to publish the total number of licenses issued, divided according to the quantity and/or the value, the opening and closing date of the various groups of licenses and any amendment thereto, so that the traders can be informed.

If the application for a license is not approved, the reasons thereto will have to be stated. In this case the applicant has the right to **appeal or revision** (Article 3 agreement with regard to the import-licensing procedure).

“Simultaneous handling” in article 9 paragraph 4 is meant to refer to a situation in which the handling of applications for licenses is not done according to the FIFO method (“first in first out”).

Paragraph 8 of article 9 grants the Permanent Secretary of the Ministry of Trade and Industry the power, by one decree to withdraw the license of a group of license holders.

Withdrawal of all licenses belonging to a certain group must be possible if so required for serious cause, such as the danger of animal or plant diseases.

## **Article 12**

### **Economic Offences**

The Visible Trade Act will, just as the act that it replaces, more in particular the 1954 Import and Export Regulation, fall under the Economic Offences Act.

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