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International Trade

Greece

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practiceguides.chambers.com

2021

GREECE

Law and Practice

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1. Trade Agreements

1.1 World Trade Organization Membership or Plurilateral Agreements

Greece has been a World Trade Organization (WTO) member since 1 January 1995 and a signatory to the General Agreement on Tariffs and Trade (GATT) since 1 March 1950. Greece has also been a party to the Agreement on Government Procurement (GPA), a plurilateral agreement included in Annex 4 of the WTO Agreement. In 1996 the country also joined the Information Technology Agreement (ITA), a tariff cutting mechanism that is intended to eliminate duties on IT products covered by the Agreement. Greece has also been a signatory to the agreement on Trade in Civil Aircraft (see www.wto.org/english/forums_e/ngo_e/csend_plurilateral_agreements.pdf).

1.2 Free Trade Agreements

Greece is a member of the European Free Trade Association and a member of all key international organisations, unions and treaties including the European Monetary Union, the International Chamber of Commerce, the International Monetary Fund, the Organisation for Economic Co-operation and Development (OECD), the Energy Community and the International Centre for Settlement of Investment Disputes.

The EU has established certain preferential tariff arrangements, according to which favourable tariff treatment is provided for goods of certain third countries. Under Article 28.1 of the Greek Constitution, Greece ratifies any such agreements concluded by the EU. For instance, Greece has ratified the free trade agreement between the EU and the Republic of Korea by Law 4259/2014, the Comprehensive Economic and Trade Agreement between the EU and Canada, and the economic partnership between the EU and Japan.

1.3 Other Trade Agreements

There are other trade agreements in Greece imposing legally binding obligations, including autonomous preferential arrangements. But there are also various bilateral agreements and memorandums of understanding aimed at enhancing economic co-operation between Greece and third countries.

1.4 Future Trade Agreements

Save for tax treaties whose ratification is pending there are no other trade agreements, applicable or under consideration or under negotiation, that are of note.

1.5 Key Developments Regarding Trade Agreements

Due to the COVID-19 pandemic, the Directorate of Tariff Affairs has issued several rules regulating trade policy matters. For instance, new arrangements have been introduced (Cir-

culars ΨΤΦΖ46ΜΠ3Ζ-7ΜΤ/15.04.2020 and 6Γ9546ΜΠ3Ζ-7ΝΠ/21.04.2020) to simplify the issuance of licences required by preferential trade agreements. Similar arrangements have been introduced (Circular Ψ9ΔΕ46ΜΠ3Ζ-Φ46) to regulate commercial transactions and to simplify the issuance of licences.

1.6 Pending Changes to Trade Agreements

The most important pending change is the one relating to Brexit and the way in which Greece will treat the import and export of goods and services, and the free movement of individuals, with the UK.

2. Customs

2.1 Authorities Governing Customs

Customs matters are regulated by Law 2960/2001 (Government Gazette Α' 265/2001), which is known as the Greek Customs Code. The authority supervising customs is the Customs Authority and its branches throughout Greece. It falls under the jurisdiction of the Ministry of Finance (General Secretariat for Public Revenue). By Law 4389/2016 the General Secretariat for Public Revenue has become an Independent Administrative Authority which enjoys a high degree of autonomy and independence.

2.2 Enforcement Agencies Enforcing Customs Regulations

The Customs Authority is the enforcement authority. Under Article 3 of Law 4758/2020 (Government Gazette Α' 242/04.12.2020) on the containment of smuggling, a so-called "central operational co-ordination mechanism" acting as a co-ordination centre between the various departments involved, is to be set up.

2.3 Legal Instruments

The Greek legislation addressing the negative impacts of trade practices in other jurisdictions, aimed at the protection of the Greek market and consumer interests, are:

- Law 3844/2010 on the transposition into Greek legislation of Directive 2006/123/EC on services in the internal market establishing general provisions facilitating the exercise of the freedom of establishment for service providers and the free movement of services – the Greek authorities may allow access without prior authorisation unless an authorisation scheme is justified for reasons of public interest (Article 10); and
- Ministerial decision 188/2019 (Government Gazette Β' 746/2019) on the transposition into Greek legislation of Regulation (EU) 2018/302 on addressing unjustified geo-blocking and other forms of discrimination based on

customers' nationality, place of residence or place of establishment within the internal market (amending Regulations (EC) No 2006/2004 and (EU) 2017/2394 and Directive 2009/22/EC).

If an authorisation scheme is required for access to a service activity or its exercise (for example, for reasons of public interest), then the service provider should file an application for the respective authorisation. The service provider may be, as per Article 2, paragraph 2 of Law 3844/2010, any Greek natural person, or any domestic or non-domestic legal person established in an EU member state, which offers or provides such service.

The authorities do not publish any reports of their findings. Publication may arise only in the case of a court decision ordering the cessation of an unfair commercial practice (Article 9(i), paragraph 3.2 of L. 2251/1994), issued upon the respective application filed by a consumer or a consumers' association. The parties and the products to which the aforementioned measures are applicable are any Greek natural person, or any domestic or non-domestic legal person established in an EU member state offering or providing a service concerning any self-employed economic activity provided for remuneration.

2.4 Key Developments in Customs Measures

The recently adopted Law 4758/2020 (Government Gazette A' 242/04.12.2020) amended some of the provisions of the Greek Customs Code and aims at a more efficient legal framework preventing the smuggling of goods. The amendments are intended to reinforce co-ordination of the relevant administrative authorities, the severity of sanctions and to simplify current enforcement procedures. The new rules:

- set up a "central operational co-ordination mechanism", acting as a co-ordination centre between the competent departments;
- introduce electronic registries available to the enforcement authorities;
- increase the severity of sanctions; and
- simplify the auditing process, for supervising authorities, of the enforcement procedures and of the respective time frame.

The COVID-19 pandemic has led the General Secretariat for Public Revenue to introduce electronic procedures (E.2033/19.03.2020, E.2105/01.07.2020) to simplify the import of goods.

2.5 Pending Changes to Customs Measures

On 28 September 2020, the European Commission proceeded to a "plan for action" for the Customs Union to be taken to

"the next level". To this end, customs authorities are expected to operate in a fully integrated way, so as to:

- protect society, the environment and the EU economy through effective facilitation of legitimate trade and intelligent, risk-based supervision of supply chains;
- be proactive, working seamlessly with stakeholders, be committed to innovation and sustainability and be the reference for customs worldwide;
- be seen to act as one (co-operation between customs authorities and other national authorities so that the EU acts as one on customs matters at an international level);
- manage risk so that it is assessed in advance and controlled when and where required, before or after the release of goods into the EU customs territory; and
- manage e-commerce – customs legislation and IT systems are being adapted to cater for new VAT rules and new reporting obligations on postal services from 15 March 2021 are intended to contribute to ensuring the safety and security of e-commerce imports.

How these will translate into local rules and enforcement procedures is yet to be seen and will play a key role in the near future.

3. Sanctions

3.1 Sanctions Regime

Sanctions are varied and can be severe. They range from administrative sanctions (from small fines to huge penalties and seizure of goods) that apply to all persons involved, including transport companies and wholesalers, to criminal sanctions of imprisonment (especially for smuggling of goods as per Article 157 of the Greek Customs Code).

3.2 Legal or Administrative Authorities Imposing Sanctions

The authority that will impose the sanctions is the competent branch of the Greek Customs Authority located in the region where the infringement took place or, if the region cannot be determined, the branch of the customs authority located in the territorial jurisdiction in which the infringement was recorded.

3.3 Government Agencies Enforcing the Sanctions Regime

Under the Greek Customs Code (Articles 180 et seq), the Minister of Finance is authorised to issue the respective decision specifying the details related to the sanctions regime. On certain occasions, depending on the type of infringement, it may be a joint ministerial decision of the Minister of Finance together with another Minister (or Ministers) who may have a legal

interest in the supervision of the market sector to which the infringement relates.

3.4 Persons Subject to Sanctions Laws and Regulations

The persons subject to sanctions laws and regulations are:

- the transport operator;
- the agent;
- the shipmaster;
- the receiver of the goods if they were aware of (or did not exercise the appropriate due diligence over) the transit to which the respective sanction is related;
- the holder of an TIR carnet or an ATA carnet;
- the shipper;
- the owner of the goods; and
- the temporary deposit warehouse manager.

3.5 List of Sanctioned Persons

There is no list of sanctioned persons maintained by the Greek authorities.

3.6 Sanctions against Countries/Regions

Greece does not maintain any comprehensive sanctions or embargoes against countries or regions except those maintained by the EU as a whole.

3.7 Other Types of Sanctions

Pursuant to ministerial decision 91,354 (Government Gazette B' 2983/30.08.2017) on packaging, import and distribution of products imported by third countries or countries within the EU, the following economic operators may be subject to penalties in case of infringement:

- the manufacturer;
- the packager;
- the importer; and
- the distributor.

3.8 Secondary Sanctions

No arrangements are in place to apply or threaten sanctions in connection with transactions that have no nexus to Greece (ie, so-called secondary sanctions).

3.9 Penalties for Violations

If the sanctions laws and regulations are violated the procedure of recovery of the imposed fines is set in motion as per the Greek Code on the Recovery of Public Revenue (Legislative Decision No 356/1974, the so-called KEDE). Violation may also trigger criminal sanctions.

3.10 Sanctions Licences

In Greece there no licences available which would authorise activities otherwise prohibited by current sanctions laws and regulations.

3.11 Compliance

For the intent and purpose of the Greek legislative framework, there are no expectations and standards of liability other than the administrative, monetary and criminal penalties set out in the law.

3.12 Sanction Reporting Requirements

Infringement of the provisions on goods import and distribution, customs requirements, smuggling and movement of goods and services, may result in the temporary deprivation of the licence to practise of the persons involved in the transportation of the goods and in criminal sanctions that may also entail the revocation of a professional or trade licence. This may also result in blocking persons involved in such activities from participating in public procurement opportunities.

3.13 Adherence to Third-Country Sanctions

At European level, Regulation (EU) 2018/302 applies on addressing unjustified geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market and aims to address unjustified geo-blocking by removing barriers to the functioning of the internal market.

At national level, blocking statues and anti-boycott provisions are found in Ministerial Decision 188/2019 (Government Gazette B' 746/2019) on the transposition into Greek legislation of Regulation (EU) 2018/302. The ministerial decision provides that the competent authority for the determination of infringement of the provisions of Regulation (EU) 2018/302 is the Directorate of Consumer Protection of the Ministry of Economy and Development. In the case of an infringement, penalties are imposed on the trader.

As regards third countries, the rules of the Treaty on European Union and the Treaty on the Functioning of the European Union (Article 28) apply, under which a common customs tariff is to apply to third countries.

3.14 Key Developments Regarding Sanctions

The key developments regarding sanctions in the last 12 months concern Law 4758/2020 (Government Gazette A' 242/04.12.2020) on the restriction of smuggling. They can be summarised as:

- the tightening of sanctions (Articles 21 and 22) in the case of infringement of certain anti-smuggling provisions; and

- the postponement/suspension of the criminal proceedings – this suspension is effective until the finalisation of the enforcement procedure due to failure to meet the deadline for filing an appeal or until the decision of the administrative court becomes irrevocable (Article 150.5 of the Greek Customs Code, as recently amended by Article 32.1 of Law 4745/2020 Government Gazette A' 214/6.11.2020).

3.15 Pending Changes to Sanction Regulations

There are no significant pending changes, hot topics or issues on the horizon over the next 12 months pertaining to sanctions.

4. Exports

4.1 Export Controls

As in other member states, the EU export control regime is governed by Regulation 428/2009, which set up a community regime for the control of exports, transfers, brokering and transit of dual-use items.

Furthermore, the Union Customs Code Regulation (EU) No 952/2013 of the European Parliament and of the Council (UCC), applicable from 1 May 2016, is also relevant in combination with:

- the Commission Delegated Regulation (EU) 2015/2446 supplementing Regulation (EU) No 952/2013 on rules concerning provisions of the Union Customs Code (UCC DA);
- the Commission Implementing Regulation (EU) 2015/2447 laying down rules for implementing certain provisions of Regulation (EU) No 952/2013; and
- the Transitional Delegated Act (Commission Delegated Regulation No (EU) 2016/341 supplementing Regulation (EU) No 952/2013 on the transitional rules for certain provisions of the Union Customs Code where relevant electronic systems are not yet operational and amending Delegated Regulation (EU) 2015/2446.

The Common Customs Tariff, along with the Integrated Tariff (TARIC), are applied to goods from non-EU countries. Goods moving freely within the EU must comply with the rules of the internal market and with certain provisions of the Common Commercial Policy. In addition, EU regulations implementing the Union Customs Code provisions ensure that Greece applies the rules in uniformity with other EU countries.

Finally, the Greek Customs Code lays down specific rules regarding customs procedures, duty assessment and collection, and sanctions for customs violations.

4.2 Administrative Authorities for Export Controls

Branches of the Customs Authority are the only authorised administrative authority that controls the application of the customs rules and procedures.

4.3 Government Agencies Enforcing Export Controls

The Customs Authority is overseen by the General Directorate for Customs and Excise Taxes, which, in turn, falls under the authority of the General Secretariat for Public Revenue of the Ministry of Finance.

4.4 Persons Subject to Export Controls

Transactions between residents of EU countries are not considered exports and, therefore, are not charged with customs duties. The Common Customs Tariff of the EU applies to goods originating outside Europe. EU export controls apply to both tangible and intangible exports of controlled items. Exports to non-EU countries are free from quantitative restrictions with the exception of oil and gas. In addition, special rules apply to the export of:

- dual use items which are goods, software and technology that can be used for both civilian and military applications;
- dangerous chemicals and pesticides; and
- the processing of agricultural products.

There is also a ban on the export of goods that are intended for capital punishment or for torture and other cruel, inhumane or degrading treatment or punishment. Also, Greece specifically bans genetically modified products.

4.5 Restricted Persons

Greece follows the consolidated list of persons, groups and entities subject to EU financial sanctions that can be downloaded from the Financial Sanctions Database, known as the FSF platform. There are over 30 EU, autonomous and UN transposed sanctions regimes in place (eg, sanctions imposed on Syria, Iran, the Democratic Republic of Congo, Venezuela, Libya, Russia and Ukraine and North Korea). In addition, the EU has also adopted horizontal regimes targeting terrorism, cyber-attacks, proliferation and the use of chemical weapons.

4.6 Sensitive Exports

Greece is in line with EU legislation on sensitive goods and products, as set out below.

- Agricultural products falling under the common market organisation (CMO) include:
 - (a) the beef and veal sector – products referred to in Regulation (EU) No 1308/2013, Article 1(2)(o) and listed in

Annex I Part XV;

- (b) the pork sector – products referred to in Regulation (EU) No 1308/2013, Article 1(2)(q) and listed in Annex I Part XVII;
 - (c) the sheep meat and goat meat sector – products referred to in Regulation (EU) No 1308/2013, Article 1(2)(r) and listed in Annex I Part XVIII;
 - (d) the eggs sector – products referred to in Regulation (EU) No 1308/2013, Article 1(2)(s) and listed in Annex I Part XIX;
 - (e) the poultry sector – products referred to in Regulation (EU) No 1308/2013, Article 1(2)(t) and listed in Annex I Part XX;
 - (f) the apiculture products – products referred to in Regulation (EU) No 1308/2013, Article 1(2)(v) and listed in Annex I Part XXII;
 - (g) the cereals sector – products referred to in Article 1(2)(a), Annex I Part I of Regulation (EU) No 1308/2013;
 - (h) the rice sector – products referred to in Article 1(2)(b), Annex I Part II of Regulation (EU) No 1308/2013;
 - (i) the sugar sector – products referred to in Article 1(2)(c), Annex I Part III of Regulation (EU) No 1308/2013;
 - (j) the olive oil sector – products referred to in Article 1(2)(g), Annex I Part VII of Regulation (EU) No 1308/2013;
 - (k) the milk and milk-products sector – products referred to in Article 1(2)(p), Annex I Part XVI of Regulation (EU) No 1308/2013; and
 - (l) the wine sector – products referred to in Article 1(2)(l), Annex I Part XII of Regulation (EU) No 1308/2013 and falling under CN codes 0806 10 90, 2009 61, 2009 69, 2204 29 (quality wine PDO and PGI excepted) 2204 30.
- Ethyl alcohol and spirit products falling under CN codes 2207 10, 2207 20, 2208 40 39–2208 40 99, and 2208 90 91–2208 90 99.
 - Ex 2401 Unmanufactured tobacco.
 - Products other than those covered as agricultural and alcoholic products above are subject to an agricultural export refund.
 - Fishery products listed in Annex I to Council Regulation (EC) No 1379/2013 on the common organisation of the markets in fishery and aquaculture products, and products listed in Annex V to this regulation, are subject to a partial autonomous suspension.
 - All fishery products are subject to an autonomous quota.

For all these sensitive goods and products special procedures in export controls are applied in Greece as they are in other EU member states.

4.7 Other Export Controls

EU export control rules can also apply to exports of non-listed items, if there is knowledge, awareness or suspicion of a sensitive end use. This includes certain end uses relating to the military sector or weapons of mass destruction.

4.8 Penalties

Penalties for breaches of export controls can include civil/administrative and criminal penalties. Typical penalties may involve:

- civil or criminal fines;
- imprisonment; and/or
- the loss of the right to apply for public procurement contracts.

4.9 Export Licences

There are no licences which would authorise activities otherwise prohibited by Greece's sanctions laws and regulations.

4.10 Compliance

Greece's compliance expectations and standards are those set by the EU. Under the EU Dual-Use Regulation each member state must take appropriate measures to ensure proper enforcement, including penalties that are effective, proportionate and dissuasive.

4.11 Export Reporting Requirements

Greece follows EU policy, as formulated on an ongoing basis. Every three years, the Commission reviews the implementation of the Regulation for the control of exports, transfer, brokering and transit of dual-use items and presents a report to the European Parliament and the Council on its application and proposed amendments. Greece supports the Commission to this end.

4.12 Key Developments Regarding Exports

During 2020, in response to the COVID-19 pandemic, the EU published an Implementing Regulation on Personal Protective Equipment (PPE) to respond to potential future shortages in the EU. The Regulation prohibited exports (unless a licence was granted) of the PPE listed, including mouth and nose protection equipment, gloves and other protective garments, whether or not these originated in the EU.

4.13 Pending Changes to Export Regulations

The pending change relates to the regulation setting out the EU regime for the control of exports, brokering, technical assistance, and the transit and transfer of dual-use items. The new framework needs to be endorsed by member states sitting on the Permanent Representatives Committee. It is intended:

- to prevent human rights violations and security threats linked to the potential misuse of cyber-surveillance technology, by making such technology subject to stricter export controls in certain circumstances;
- to allow for greater exchange between member states on the export of cyber-surveillance items;
- to introduce two general EU export authorisations for the export of dual-use items – one for cryptographic items and one for intra-group technology transfers;
- to strengthen the enforcement of controls through improved co-operation between licensing and customs authorities, and introduce mechanisms allowing member states to strengthen their co-operation in this area;
- to introduce a new provision on transmissible controls, allowing, in certain cases, a member state to introduce export controls on the basis of the legislation established by another member state, thereby allowing for the cross-border effect of that member state's export controls;
- to harmonise at EU-level the rules applicable to certain services with regard to dual-use items currently regulated at national level (technical assistance); and
- to allow, through the new reporting rules, for more transparency on trade in dual-use items while at the same time respecting the confidentiality of business secrets and of national security interests.

Moreover, the EU Commission is launching a pilot e-licensing system in five countries, one of them being Greece, which is aimed at an entirely paperless process between economic exporters and licensing authorities. The e-licensing system covers exports as well as transit, brokering and imports.

5. Anti-dumping and Countervailing (AD/CVD)

5.1 Authorities Governing Anti-dumping and Countervailing (AD/CVD)

Greece, like other EU member states, has transferred to the EU all power relating to anti-dumping and countervailing duties. Thus, from the Greek perspective, the EU has centrally become the competent authority to enforce trade rules on both the EU's export markets and within the EU itself. The EU's anti-dumping and anti-subsidy legislation was first enacted in 1968 and has since been modified several times. The key texts, which form the legal basis of anti-dumping and anti-subsidy investigations in the EU, as codified in 2016 to revise the rules introduced in the late 1990s, are:

- Regulation (EU) 2016/1036 of the European Parliament and of the Council on protection against dumped imports from

countries not members of the European Union – Codified Version

- Regulation (EU) 2016/1037 of the European Parliament and of the Council on protection against subsidised imports from countries not members of the European Union – Codified Version.

Both regulations were later modified by Regulation (EU) 2017/2321 and Regulation (EU) 2018/825 of 30 May 2018.

The current EU safeguard instruments are covered by:

- Regulation (EU) 2015/478 of the European Parliament and of the Council of 11 March 2015 on common rules for imports (codification);
- Regulation (EU) 2015/755 of the European Parliament and of the Council of 29 April 2015 on common rules for imports from certain third countries (recast);
- Regulation (EU) 2019/287 of the European Parliament and of the Council of 13 February 2019 implementing bilateral safeguard clauses and other mechanisms allowing for the temporary withdrawal of preferences in certain trade agreements concluded between the European Union and third countries; and
- Regulation (EU) 2015/936 of the European Parliament and of the Council of 9 June 2015 on common rules for imports of textile products from certain third countries not covered by bilateral agreements, protocols or other arrangements, or by other specific EU import rules (recast).

Being Regulations, these texts are in no need for transposition into Greece legislation.

5.2 Government Agencies Enforcing AD/CVD Measures

From the Greek perspective, the European Commission is the responsible body for investigating and deciding on dumping or safeguards claims or on any alleged subsidy, and for imposing the relevant measures.

5.3 Petitioning for a Review

The investigation to determine the existence, degree and effect of any alleged dumping or subsidy is as determined by EU legislation. It can be initiated by:

- any natural or legal person or association – the written complaint can be submitted to the Commission or to the member state, such as Greece, which will forward it to the Commission;
- a member state, such as Greece, which is in possession of sufficient evidence of dumping or subsidising and of

resultant injury to EU industry, should communicate such evidence to the Commission; and

- the Commission, in special circumstances and on the basis of sufficient evidence of the existence of dumping or countervailable subsidies, injury and causal link.

The safeguard procedure is slightly different from anti-dumping and anti-subsidy: the investigation procedure is implemented only when a member state informs the Commission if trends in imports appear to call for surveillance or safeguard measures. If a natural or legal person believes safeguard action might be justified, a duly substantiated request to the Greek authorities must be made. If the Commission considers there is sufficient evidence to justify an investigation, it will open one, by publishing a notice in the EU's Official Journal. The Commission may also launch safeguard investigations at its own initiative.

5.4 Ad Hoc and Regular Reviews

Domestic companies are able to petition the relevant authorities on an ad hoc basis, provided they have sufficient evidence to support their claims.

5.5 Non-domestic Company Participation

The notice of initiation of proceedings for investigating dumping or safeguards claims, or any alleged subsidy, should indicate, among other things, the periods within which interested parties, including non-domestic companies, may make themselves known, present their views in writing and submit information.

The Commission provides the full text of the written complaint received to the known exporters and to the authorities of the exporting country, and makes it available upon request to other interested parties involved. The interested parties may be heard if they have made a written request for a hearing showing that they are likely to be affected by the result of the proceedings and that there are particular reasons why they should be heard.

Opportunities will, on request, be provided for the importers, exporters, representatives of the government of the exporting country and the complainants, to meet those parties with adverse interests, so that opposing views may be presented and rebuttal arguments offered. Therefore, non-domestic companies are not excluded.

5.6 Investigation and Imposition of Duties and Safeguards

Anti-dumping and Anti-subsidy Investigation

Once the Commission receives a valid complaint from an EU industry, providing sufficient evidence that exporting producers from one or more countries are dumping or that a country is subsidising companies exporting a particular product to the

EU market, the Commission launches an investigation within 45 days to examine whether:

- dumping is taking place from the country/countries concerned or imports from the country/countries concerned are subsidised;
- there is injury to the EU industry;
- it is the dumping or the subsidised imports that are causing this injury; and
- it would be in/against the economic interests of the EU to impose measures (which are usually in the form of an anti-dumping or countervailing duty).

A Notice of Initiation is published in the EU's Official Journal, specifying the product under investigation, the country/countries to be investigated, the rights and obligations of interested parties to the proceeding, and the deadlines which will apply.

Questionnaire

At the same time, a questionnaire is sent to exporters and authorities (government and/or public bodies) in the country/countries concerned, EU producers and importers, and users. The deadline for replies to the questionnaire and claim forms are set out in the Notice of Initiation.

Parties who do not reply to the questionnaire or do not cooperate in other ways may be regarded as not co-operating with the investigation. The Commission will continue the investigation and may use other information available. The duty imposed on a non-co-operating exporter is likely to be higher than if it had co-operated.

Measures taken

Once companies have replied to the questionnaire sent to them, case officers verify the data (usually by inspecting records at the company's premises). The Commission then makes provisional findings. At this point, it may:

- impose provisional anti-dumping or countervailing duties (usually in force for six and four months respectively);
- continue the investigation without imposing duties; or
- terminate the investigation.

All parties have the right to comment on the provisional findings and receive disclosure of the essential facts and considerations that form the basis of the provisional findings. The Commission takes due account of the comments received when it continues the investigation. The definitive findings are also disclosed to interested parties and comments requested.

Based on its final findings, the Commission either:

- imposes definitive measures, or
- terminates the case without measures.

The Commission must impose any measures within 15 months of the initiation of the investigation for dumping and within 13 months of the initiation of the investigation for any alleged subsidy.

Safeguard Investigation

A safeguard investigation must normally be completed in nine months but, in exceptional circumstances, may be extended to 11 months.

The investigation examines:

- import trends;
- the conditions in which they take place; and
- whether they cause (or threaten) serious harm to EU producers.

The main conclusions of the finished investigation are published as a regulation in the EU's Official Journal.

Measures taken

If the investigation shows that imports have increased so much that they cause or threaten to cause serious harm to EU producers, the Commission can impose safeguard measures. Safeguard measures can take various forms – eg, increased customs duties or quotas (including tariff quotas). Quotas are normally set at least as high as the average level of imports over the last three representative years.

Provisional measures (maximum 200 days) may be imposed in critical circumstances and if a preliminary determination provides clear evidence of harm or impending harm.

Definitive measures must not exceed four years (including the duration of any provisional measures) – unless extended, to a total maximum of eight years.

Measures apply to all countries without discrimination, although developing countries with low import shares can be excluded. Before and during the investigation, the Commission consults the national authorities in the Safeguard Advisory Committee (representatives of each EU country). The Commission must notify member governments of any decision it takes on safeguard measures. Any government that disagrees may refer the decision to the Council, which can confirm, amend or revoke it (by qualified majority). If the Council fails to react within three months, the Commission decision is automatically revoked.

5.7 Publishing Reports

There are no national anti-dumping and countervailing reports. It is again the Commission that presents an annual report to the European Parliament and to the Council, which includes information about the application of provisional and definitive measures, the termination of investigations without measures, reinvestigations, reviews and verification visits, and the activities of the various bodies responsible for monitoring the implementation of the measures and fulfilment of the obligations arising therefrom. No later than six months after presenting the report to the European Parliament and to the Council, the Commission shall make the report public.

5.8 Jurisdictions with No Imposition of Duties and Safeguards

Although, there are no jurisdictions in which the Commission will not impose measures, there are currently in place EU trade agreements with Canada, Japan and Singapore that contain specific terms for the imposition of anti-dumping and countervailing duties.

5.9 Frequency of Reviews

Anti-dumping and Anti-subsidy Investigation

Measures lapse after five years. In that period, the Commission can conduct an interim review if:

- there is evidence that the measures are no longer needed; or
- the measures are no longer needed to counteract injurious imports.

In the final year of measures, the EU producers may ask the Commission to conduct an expiry review. This review determines whether the expiry of the measures could lead to continued or recurring dumping/subsidising and injury. If so, the measures may continue for another five years.

Furthermore, companies that either did not exist, or did not export to the EU during the original investigation, can request a new exporter review to have their own individual duty rate established.

Finally, when there is evidence of duties being absorbed, the original trade defence investigation may be reopened (anti-absorption reinvestigation) at the request of any interested party (EU producer, exporter, importer, user), EU country or the Commission. Duties are said to be absorbed when, after anti-dumping or countervailing duties have been imposed, export prices decrease or the resale prices of the imported goods do not increase sufficiently, so the measures do not have the expected effect

Safeguard Investigation

No later than the mid-point of the period of application of measures of a duration exceeding three years, the safeguard measures are reviewed in order to:

- examine the effects of the measures;
- determine whether and in what manner it is appropriate to accelerate the pace of liberalisation; and
- ascertain whether the application of the measures is still necessary.

5.10 Review Process

Anti-dumping and Anti-subsidy Investigation

Interim review

To request an interim review, the interested party should contact the Commission in writing, stating the reasons for the review and providing prima facie evidence substantiating the need for it. If the Commission accepts the request, it will then publish a Notice of Initiation in the EU's Official Journal and send out questionnaires to interested parties, just as in the original investigation. A review should be concluded within, at most, 12–15 months.

New exporter review

Companies that either did not exist, or did not export to the EU during the original investigation, can request a new exporter review to have their own individual duty rate established. To qualify as a “new exporter”, a company must:

- not have exported the product concerned to the EU during the original investigation period;
- not be related to any exporter or producer subject to the measures imposed; and
- have exported the product to the EU since the original investigation, or be contractually bound (irrevocably) to export a significant quantity to the EU.

If a company appears to meet the above criteria, a review will be opened. The review will investigate whether the criteria are met and, if so, establish an individual margin of dumping for the company concerned. Specific rules apply when the applicable duty was established on the basis of a sample of exporting producers.

Reopening an investigation

Any interested party EU industry, exporter, importer, user which finds evidence of absorption of duties, EU country or the Commission, can either lodge a complaint with the European Commission (Directorate General for Trade, Directorate H) or inform national authorities, who may ask for the investigation to be reopened. When there is evidence of duties being absorbed, the original trade defence investigation may be reopened. The

reinvestigation is initiated by publishing a Notice in the EU's Official Journal, normally within two years of the original measures being imposed. It should take no more than nine months to complete. The reinvestigation gives exporters, importers, EU producers and users the opportunity to explain the export prices and EU resale prices. If the conclusion is that the duties should have resulted in price changes that did not take place, the dumping margins can be recalculated and the duties increased up to double the rate of the original duty.

Safeguard Investigation

While any surveillance or safeguard measure applied is in operation, the Commission may, either at the request of a member state or on its own initiative, and no later than at the mid-point of the period of application of measures of a duration exceeding three years:

- examine the effects of the measure;
- determine whether and in what manner it is appropriate to accelerate the pace of liberalisation; and
- ascertain whether application of the measure is still necessary – where the Commission considers that it is still necessary, it shall inform the member states accordingly.

Where the Commission considers that any surveillance or safeguard measure should be revoked or amended, it shall revoke or amend the measure. Where the decision relates to regional surveillance measures, it shall apply from the sixth day following that of its publication in the Official Journal of the European Union.

5.11 Appeal Process

Any interested parties can appeal to the General Court and the Court of Justice against the decision of the Commission to impose (or not) any duties.

5.12 Key Developments Regarding AD/CVD Measures

Until 15 May 2020, the European Commission managed, at EU level, the issuance of prior import authorisations for certain steel and aluminium products under the prior surveillance regime. The prior surveillance regime has been replaced by a monitoring system, based on data collected by the Commission in the framework of Article 56(5) of the Union Customs Code, by which the release for free circulation or the export of goods may be made subject to surveillance.

While the prior surveillance regime allowed obtaining information on intentions to import, the new monitoring system is an ex-post system based on actual import data transmitted by the member states customs authorities. This data is indicative and may be slightly different from the official import statistics made

available by Eurostat two months after the actual import. The monitoring reports are updated on a monthly basis, and cover steel and aluminium products previously subject to prior surveillance as well as product more recently added to the original list of products subject to the US Section 232 measures. As from the 1 July 2020, a specific report showing the development of imports for the product categories subject to the steel safeguard measures is also available and updated on a monthly basis at the same time as the other reports.

5.13 Pending Changes to AD/CVD Measures

The Commission is currently developing a new internal system that will improve the monitoring of the effectiveness of measures in force. The system will integrate, into one storage place, information on trade flows and employment figures related to investigations and measures. The Commission will regularly update data to allow the comparison of figures before and after the imposition of relevant measures.

6. Investment Security

6.1 Investment Security Mechanisms

EU Level

At European level, the recently adopted Regulation (EU) 2019/452, which has now come into force, applies to investment security mechanisms establishing a framework for the screening of foreign direct investment into the EU on the grounds of security or public order and for a mechanism for co-operation between member states, and between member states and the Commission. It also includes the possibility for the Commission to issue opinions on such investments.

Sectors

Under Article 4 of Regulation (EU) 2019/452, certain criteria may be considered by the member states and the Commission in determining whether a foreign direct investment is likely to affect security or public order.

- Critical infrastructure, whether physical or virtual, including energy, transport, water, health, communications, media, data processing or storage, aerospace, defence, electoral or financial infrastructure, and sensitive facilities, as well as land and real estate crucial for the use of such infrastructure.
- Critical technologies, including artificial intelligence, robotics, semiconductors, cybersecurity, aerospace, defence, energy storage, quantum and nuclear technologies as well as nanotechnologies and biotechnologies.
- Supply of critical inputs, including energy or raw materials, as well as food security.

- Access to sensitive information, including personal data, or the ability to control such information; or the freedom and pluralism of the media.

Investors

In determining whether a foreign direct investment is likely to affect security or public order, the following may also be taken into account.

- Whether the foreign investor is directly or indirectly controlled by the government, including state bodies or armed forces, of a third country, including through ownership structure or significant funding.
- Whether the foreign investor has already been involved in activities affecting security or public order in a member state.
- Whether there is a serious risk that the foreign investor engages in illegal or criminal activities.

National Level

At national level, besides the above Regulation, the following legal instruments are also in force, aimed at the development of investment and the security of Greek economy.

- Law 4399/2016 (Statutory framework for the establishment of Private Investments Aid Schemes for the regional and economic development of the country - Establishment of Development Council and other provisions) is the main investment incentives law.
- Law 4608/2019 (Hellenic Development Bank and Attracting Strategic Investments) has inserted notable changes to strategic investments.
- Law 4146/2013 (Creation of a Business-Friendly Environment for Strategic and Private Investments) introduces investment incentives.
- Law 3908/2011 (Aid for Private Investments) provides incentives in the form of tax relief.
- Law 3894/2010 (Aid and Transparency of Strategic Investments) provides for fast-track licensing procedures for qualifying investments in several sectors (eg, industry, energy, tourism and technology).
- Law 3389/2005 regulates public private partnerships (PPP).
- Ministerial Decision 500/2020 (Government Gazette B' 1936/2020) on the fourth notice for submitting, as well as Ministerial Decision 133/2019 (Government Gazette B' 4789/24.12.2019), which provide for the details on the procedure for completing investment projects subject to investment legislation.

Under the main investment incentives law (Law 4399/2016), the review procedure is initiated as soon as the investor submits an investment file before the competent authority of the Ministry

of Development and Investments. The review process is set out in detail in Ministerial Decision No 500/2020.

6.2 Agencies Enforcing Investment Security Measures

At national level, the “National Register of Certified Assessors”, as per Article 14 of Ministerial Decision No 500/2020 in conjunction with the Ministerial Decision 134/2019 on the establishment of the competent bodies of the security mechanisms for investment projects (adopted under Law 4399/2016), is the responsible agency for all proceedings related to the submission and the review of the investment files submitted. The aforementioned agency is also responsible for enforcing investment security measures by rejecting any applications in the case of deficiencies of the respective files.

6.3 Transactions Subject to Investment Security Measures

The beneficiaries of the provisions of the main investment incentives Law (Law 4399/2016) are, as per Article 6, all enterprises located in Greece and all branches located in Greece at the time of submitting the investment file. The transactions subject to the investment security measures cover most economic sectors. Regulation (EU) 2019/452 (Article 2.1) on the establishment of a framework for the screening of foreign direct investment into the EU, stipulates that the investment security measures apply to any private investment of any kind by a foreign investor aiming to establish or maintain lasting and direct links between the foreign investor and the entrepreneur to whom – or the undertaking to which – the capital is made available in order to carry on economic activity in a member state, including investments which enable effective participation in the management or control of a company carrying out an economic activity.

6.4 Mandated Filings/Notifications

According to Law 4608/2019 and Law 4399/2016, an investor should submit an investment file at the competent authority of the Ministry of Finance.

6.5 Exemptions

There are several exemptions from review which are provided for in Articles 6 and 7 of Law 4399/2016. For instance, if an undertaking changes its seat in the period starting two years before the investment and ending two years after the completion of the investment, it will be excluded from aid schemes. Moreover, certain sectors – such as energy, transport, construction, education, retail, law and insurance – are excluded.

6.6 Penalties and Consequences

The review of an investment file may be rejected by the competent authority for reasons laid down in Law 4399/2016, such as the incompleteness of the file. Undertakings that have received

investment aid may not cease their activity and may not file any false information at any stage of the process. If they do, they must refund any aid received.

6.7 Fees

The fees associated with investment security reviews or filings vary (Article 13 of Law No 4399/2016 and Ministerial Decree under No 130/2020 Government Gazette B’ 5398/2020) depending on the amount of the investment project.

6.8 Key Developments Regarding Investment Security

One key development in this area was the new call for investment schemes that was announced in mid-2020 [Ministerial Decree No 500/2020 (Government Gazette B’ 1936/2020)].

6.9 Pending Changes to Investment Security Measures

There are no pending changes expected in this area in the next 12 months.

7. Other Measures Affecting Production and Trade

7.1 Subsidy and Incentive Programmes for Domestic Production

Law No 4399/2016 (on the Statutory framework for the establishment of Private Investments Aid Schemes for the regional and economic development of the country - Establishment of Development Council and other provisions) is the main investment incentives law. Also, the notice for investment projects, given by virtue of the Ministerial Decree No 500/2020 (Government Gazette B’ 1936/2020) is the key instrument providing for subsidy and incentive programmes in Greece.

7.2 Standards and Technical Requirements

Regulations (EU) 1151/2012 on quality schemes for agricultural products and foodstuffs and 668/2014 laying down rules for the application of Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs as well as Ministerial Decision 8187/2019 (Government Gazette 4721/19.12.2019) provide for standards and technical requirements encouraging domestic production.

At the national level, the national technical requirements include a certification procedure for acquiring a verification for a “protected designation of origin” product (“POP”/“PDO”) by applying the relevant application to the competent department of the Ministry of Rural Development. Law 4384/2016 (Article 38) also provides for the establishment of “Product protection

and management teams” for compliance with the requirements of the protected designation of origin.

7.3 Sanitary and Phytosanitary Requirements

The sanitary and phytosanitary requirements in Greece are set out in Law 4036/2012 and relate to the transposition of:

- Regulation (EC) No 1107/2009 on the placing of plant protection products on the market;
- Regulation (EC) NO 396/2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin; and
- Directive 2009/128/EC establishing a framework for Community action to achieve the sustainable use of pesticides.

The Directorate for the Protection of Plant Production of the Ministry of Rural Development and Food is the competent authority for monitoring the implementation of the requirements indicated in this legislation.

7.4 Policy and Price Controls

The fixing and co-ordination of purchase or selling prices and other trading conditions aimed at policy and price controls are provided in Law 4529/2018 on the transposition into Greek legislation of EU Directive 2014/104 on certain rules governing actions for damages under national law for infringements of the competition law. Furthermore Law 3959/11 on free competition makes reference to Article 101 of the Treaty on the Functioning of the European Union for the protection of competition. Law 146/1914 still applies on unfair competition.

7.5 State and Privatisation Measures

According to its founding Law. 3986/2011, the Hellenic Republic Asset Development Fund (HRADF or TAIPED) leverages the State’s private property, according to the country’s international obligations. In co-operation with the Greek Government, the HRADF promotes the implementation of privatisations in the country.

7.6 “Buy Local” Requirements

No “Buy National/Local” requirements in government procurement apply in Greece.

7.7 Geographical Protections

Please see 7.2 **Standards and Technical Requirements**.

8. Other Significant Issues

8.1 Other Issues or Developments

There are no other significant issues or developments in the law not otherwise addressed in this chapter.

Kelemenis & Co. is a leading Athens-based law firm providing quality legal services in the key corporate and commercial areas. The firm advises a varied client base that includes corporations, governments, large institutions and high net worth individuals. Kelemenis & Co. has built a reputation for acting on complex, high-volume cross-border transactions for a range of corporate and financial institution clients. The firm's track record spreads across an array of sectors, including energy, infrastructure, hotels, leisure, real estate, retail and technology.

Although Greece has been the focal point of the firm's activities, the firm has been active in Southeast and Eastern Europe, where it advises local governments on legal approximation with the EU *acquis communautaire* and international investors on their cross-border ventures. The firm is the Greece member of Multilaw, a leading global law network consisting of more than 70 law firms worldwide and over 7,000 lawyers in over 150 commercial centres.

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