

Trade Levis and Safeguard Measures Law, 1991

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TRADE LEVIES AND SAFEGUARD MEASURES LAW, 1991

Chapter A: Definitions

Definitions

1. In this Law —

"committee" — the advisory committee appointed under section 6;

"Commissioner" — the person appointed by the Minister under section 5;

"director" — the Director of Customs and Value Added Tax, or a person authorized by him;

(Amendment no. 4)
5768-2008

"World Trade Organization Agreement" — the Agreement Establishing the World Trade Organization, as signed in Marrakech on 15 April 1994;

(Amendment no. 4)
5768-2008

"the Agriculture Agreement" — the Agreement on Agriculture, provided as Appendix A1 of the World Trade Organization Agreement;

(Amendment no. 4)
5768-2008

"goods" — including raw materials and unprocessed agriculture products;

"importer" of goods — as in the definition of "owner" in respect of goods in the Customs Ordinance, including anyone for whom a bill of entry has been allowed for use of the goods in Israel;

(Amendment no. 3)
5765-2005

"production" — includes agricultural production and mining;

(Amendment no. 3)
55765-2005

"producer" — includes a grower and a miner, and includes a person who has begun to set up a productive enterprise;

"possessor of goods" — any person in possession or in control of goods used or intended to be used by him for supply, production or the provision of services, whether or not he owns those goods;

"foreign currency" — as defined in the Foreign Currency Control Law 5378-1978;

"dealer" — as defined in the Value Added Tax Law 5736-1975 (hereinafter: VAT law);

"value" —

(1) in respect of imported goods — their value for customs purposes, as defined in the Customs Ordinance;

(2) in respect of exported goods and goods held as stock — their ex factory price in an arm's length transaction ;

(Amendment no. 4)
5768-2008

"the Minister" — notwithstanding the provisions of any enactment, as specified below, as the case may be:

(1) For purposes of Chapter B — any Minister in his jurisdiction;

(2) For purposes of Chapter B2, regarding anything concerning unprocessed agriculture products — the Minister of Agriculture and Rural Development;

(3) For purposes of Chapter B2, regarding anything concerning goods that are not unprocessed agriculture products and for purposes of the other provisions of this

law – the Minister of Industry, Trade and Labor."

Chapter B: Safeguard Levy

Safeguard levy

2. (a) The Minister May — and in respect of paragraphs (1), (2), (6) and (7) he may jointly with the Minister of Finance — impose by order levies on the import of goods to Israel, on the export of goods from Israel, on the possession of goods or on the provision of services (in this law: safeguard levy), if he is of the opinion that the levy is needed for one or more of these purposes, as he shall specify in the order:

- (1) to prevent deterioration of Israel's balance of payments or foreign currency reserves;
- (2) to regulate production, demand or consumption of agricultural and fishery products, including the prevention of surpluses or of depressed prices for such produce;
- (3) Safeguard of domestic production of agriculture products specified in Appendix XLII of the World Trade Organization Agreement, against injury caused or likely to be caused by competing imports, pursuant to the provisions of the chapter dealing with special safeguard measures in the Agriculture Agreement;
- (4) to prevent the exhaustion of mineral deposits;
- (5) to restrict or prevent the export of raw materials produced or mined in Israel in order to prevent shortages in the local market, or to regulate the price of the said raw materials; "raw materials" — including minerals, as defined in the Mining Ordinance, materials enumerated in the definition of "quarry" in section 108 of the Mining Ordinance, goods that only underwent initial processing and are intended to be used as components in the production of other products, unprocessed farm produce, and scrap metals;
- (6) to absorb or prevent excess profit due to a legislative provision or from an economic step taken by the government or one of its Ministers; "excess profit" — the difference between the price obtained, or which could have been obtained by the possessor of goods for those goods in the open market, and the price he actually paid for the goods, plus expenses and reasonable profit;
- (7) to absorb assistance or benefits conferred by the government in respect of goods intended to be used in Israel, but which actually were exported;
- (8) to adopt economic countermeasures against any state, which violated an agreement or arrangement with the State of Israel;
- (9) to restrict or prevent import from any country that prohibits or restricts trade with Israel, or which takes discriminatory steps against it, or to restrict or prevent export to a said country.

(Amendment no. 4)
5768-2008

(b) A safeguard levy may be general, for a category of goods, or for certain goods, for a certain dealer or category of dealers, or for the import of goods from certain countries or certain suppliers, or for a certain shipment of goods.

(c) The amount of the safeguard levy shall be equivalent to the proportion of goods' value or a fixed sum or a proportion of the excess profit, or according to any

other calculation, all as prescribed by the Minister by order.

(d) An order, which imposes a safeguard levy, shall be in effect for a period of not more than two years, but the Minister may reimpose the levy or extend its effect by order, as long as it is required for one of the purposes enumerated in subsection (a).

Liable for Levy

3. The following are liable for the levy:

- (1) on imports — the importer;
- (2) on exports — the exporter;
- (3) on the possession of goods — the possessor;
- (4) on the provision of services — whoever provides the service.

Law (no. 2)
5759–1998

Chapter B1: Import Duty

Import Duty (no. 2)
5759–1998

3.1 (a) The Minister, together with the Minister of Finance, shall be entitled to levy, by order, a duty on imports into Israel for goods originating in a country with which a preference agreement between itself and Israel enables the levying of a duty on the import of goods, which is not a duty pursuant to Chapters Two or Three (hereinafter — import duty); in this matter, “preference agreement” — an agreement that determines a rate of tax on the import of goods, which is lower than the rate of tax levied on the import of goods from a country that is subject to the “Most Favored Nation” section, in accordance with an agreement to which Israel is a party.

(b) The rate of the import duty, with the addition of the Customs duty levied on the goods, shall not exceed the rate of the Customs duty levied on goods which originate in countries that do not have a preference agreement with Israel, which are classified in the same item in the Customs Rate and Exemptions order, and purchase tax on goods published pursuant to the following laws:

- (1) The Customs Rate and Exemptions Ordinance, 1937;
- (2) The Customs and Excise Law (Amendment of Rate), 5719-1949;
- (3) The Purchase Tax (Goods and Services) Law, 5712-1952;
- (4) The Customs, Excise and Purchase Tax (Cancellation of Special Exemption) Law, 5717-1957.

(c) The import duty may be for a type of goods or for certain goods, for a period of time that shall be determined in the order.

(d) The provisions of sections 2 (c), 3 and Chapter Five shall apply, mutatis mutandis, to the import duty pursuant to this chapter.

(Amendment no. 4)
5768-2008

Chapter B2: Safeguard Measures

Title A: Definitions

Definitions

3.2 In this Chapter –

(Amendment no. 4)
5768-2008

"Safeguard Measures" – safeguard levy or import quota, as defined in Title E;
 "increased imports", of goods – as defined in Section 3C(b)(1);
 "similar goods", in respect of imported goods and "competent authority" of a foreign country – as defined in Section 4;
 "imported goods" – goods imported to Israel in respect of which an application was submitted pursuant to the provisions of Section 3C(a);
 "competing goods", in respect of imported goods – goods constituting a direct substitute for imported goods which are not similar goods;
 "the Commissioner" – anyone who was appointed pursuant to Section 5, and for purposes of goods which are unprocessed agriculture products – a person of knowledge and expertise in economics and foreign trade who was appointed by the Minister of Agriculture and Rural Development;
 "serious injury" – as defined in Section 3C(b)(2);
 "interested party" – any of the following:

- (1) A producer, exporter or importer of imported goods as well as an organization in which such producers, exporters or importers are members;
- (2) A producer in Israel of goods which are similar to the imported goods or of goods competing with the imported goods, as well as an organization, including a corporation lawfully founded, in which such producers are members;
- (3) A competent authority in the exporting country of the imported goods;

"an involved party" – as defined in Section 3G;
 "domestic industry", regarding similar goods to imported goods or s competing goods with imported goods – all producers in Israel of such similar or competing goods or part of said producers whose overall production constitutes a major proportion of the total domestic production of the similar or competing goods.

Title B: Inquiry Proceedings

Application to Carry
Out an Inquiry due to
Increased Imports

(Amendment no. 4)
5768-2008

3.3 (a) A domestic industry of similar goods to imported goods or of competing goods with imported goods or anyone representing it (in this Title – the Complainant), is entitled to submit to the Commissioner, a written application to carry out an inquiry, due to the fact that increased imports of goods and the conditions of import thereof caused or are likely to cause serious injury to the domestic industry (in this Chapter – application to carry out inquiry).

(b) An application to inquire shall include information and evidence as to each of the following and additional information that the Minister may determine, provided that they can be obtained with reasonable effort:

- (1) The existence of a substantial increase in the volume of imports of goods, in absolute or relative terms to production or consumption in Israel of similar goods to the imported goods or of competing goods with the imported goods (in this Chapter – increased

- imports);
- (2) The existence of an overall and substantial injury or likelihood of such injury (in this Chapter – serious injury) to the domestic industry of the goods similar to the imported goods or of competing goods with the imported goods;
- (3) The existence of a causal link between the increased imports and the serious injury to the domestic industry.

(c) The application to carry out an inquiry shall be submitted with plans for facilitating adjustment of the domestic industry to the competitive conditions with the imported goods.

(d) Should the Commissioner determine that an application to investigate does not include all the information and evidence required pursuant to subsections (b) and (c), he shall inform the complainant to that effect, in writing, and allow him to submit the missing information or evidence within 15 days from the date of receiving the notification; the Commissioner may, at the complainant's request, extend said period for an additional period not exceeding 15 days; should such information and evidence fail to be submitted to the Commissioner within the period set for that purpose by the Commissioner, the complaint will be deemed cancelled by the complainant, however, this will not prevent the complainant from submitting a new complaint in the same matter.

Initiating an Investigation
(Amendment no. 4)
5768-2008

3.4 (a) Should an application to carry out an inquiry be submitted, the Commissioner shall initiate an inquiry regarding the application, if he finds, after examining the information and evidence included in the application, including the accuracy and reliability thereof, as well as additional information available to him, that there is adequate *prima facie* evidence to fulfill that stated in Section 3C(b).

(b) The Commissioner's decision, pursuant to subsection (a) shall be made within 30 days from the date of submission of the application to carry out an inquiry, and if additional information and evidence have been submitted to the Commissioner pursuant to Section 3C(d) – within 20 days from the date of submission thereof.

(c) The Commissioner may, under special circumstances, initiate an inquiry on his own initiation, notwithstanding the submission of an application to carry out an inquiry, provided that he finds that there is adequate *prima facie* evidence to fulfill that stated in Section 3C(b); the provisions of this chapter shall apply to such investigation, *mutatis mutandis*.

Notification of the Commissioner of Initiating an Investigation
(Amendment no. 4)
5768-2008

3.5 (a) Should the Commissioner decide, pursuant to the provisions of Section 3D, not to initiate an inquiry, he shall notify the complainant to that effect, in writing, noting his reasons.

(b) Should the Commissioner decide, pursuant to the provisions of Section 3d, to initiate an inquiry, he shall notify, in writing, within five days from the date of his decision, to the complainant and to the competent authorities in the exporting countries of the imported goods which are a party to the inquiry and also to any other interested party whose name has been indicated in the application to carry out an inquiry; the notification shall include the details indicated in subsection (c), and a copy of the complaint and of the Commissioner's decision to initiate an inquiry shall be attached thereto.

(c) The notification as stated in subsection (b) shall include the nature of the

complaint, the name of complainant, the type of imported goods, the exporting country of the imported goods and the date of opening the investigation;

(d) The notification as stated in subsection (b) shall be published, within the time stated in the aforementioned subsection, in two daily newspapers with a large circulation in Israel and on the web-site of the Ministry of Industry Trade and Labor; the publication shall include an invitation to an interested party to contact the Commissioner, within seven business days from the date of publication in said newspapers, with a request to receive, in the manner and at the time determined by the Minister, a copy of the complaint and of the Commissioner's decision to initiate an inquiry.

Response Document
(Amendment no. 4)
5768-2008

3.6 (a)(1) An interested party shall be entitled to submit to the Commissioner its response to the complaint, in writing, within 30 days from the date on which it was presented with a copy of the complaint and of the Commissioner's decision to initiate an inquiry pursuant to the provisions of Section 3E(b) or (d), as the case may be; the response shall contain information and evidence in any matter pertaining to the investigation (in this Chapter – a Response Document) and the interested party shall send a copy thereof to the complainant.

(2) The Minister may determine the details of information and evidence that an interested party must include in the response document.

(b) The complainant may submit to the Commissioner its response to the response document, in writing, within 20 days from the date it was presented with the response document; the complainant shall send a copy of such response to any interested party that submitted a response document pursuant to subsection (a).

(c) The Commissioner may, due to special reasons that shall be recorded, extend the periods stated in subsections (a) or (b) for an additional period not exceeding 21 days, and he may also shorten said periods should he be of the opinion that there exist special circumstances justifying such action.

Rights of an Interested
Party and of a
Competent Authority
in an Exporting
Country (Amendment
no. 4)
5768-2008

3.7 (a) The Commissioner may invite any interested party submitting a response document pursuant to the provisions of Section 3F as well as the complainant (in this Chapter – an involved party) to also present its claims orally, as submitted in writing; the Commissioner may also invite a competent authority in the exporting country of the imported goods to present its claims orally, even if it has not submitted a response document thereby.

(b) The Commissioner shall enable an involved party in the inquiry, upon its request, and also to a competent authority in the exporting country of the imported goods even if it has not submitted a response document thereby, at its request, to see any information in his possession pertaining to the inquiry, provided that it is not confidential information as defined in Section 32B as applied in Section 3I.

Preliminary Decision
regarding Imposing
Temporary Guarantee
(Amendment no. 4)
5768-2008

3.8 (a) The Commissioner may, at any stage following the expiration date of submitting a response document pursuant to Section 3F(a), reach a preliminary decision according to which, due to the *prima facie* existence of increased imports, serious injury to the domestic industry and a causal link, as stated in Section

3C(b), there is a need to provide temporary guarantee to prevent an injury which is likely to be caused to the domestic industry during the inquiry, that shall be difficult to repair without the temporary guarantee.

(b) Should the Commissioner decide in his preliminary decision that it is necessary to provide a temporary guarantee, he shall determine in his decision the rate of the guarantee required, in his opinion, to prevent the injury as stated in subsection (a) and the period of time for which it shall be deposited, provided that it does not exceed 200 days; the Commissioner shall notify the director as to his decision as close as possible to the date of making this decision.

(c) The Commissioner shall notify his preliminary decision within five days from the date of making it to a notified party as well as to a competent authority in the exporting country of the imported goods even if has not submitted a response document.

(d) Should the Commissioner notify the director as stated in subsection (b), the director shall demand from any importer of the imported goods, a guarantee at the rate notified by the Commissioner, and he shall instruct that the release of said goods be delayed from the supervision of the Customs Authority until deposit of the guarantee.

(e) An appeal of the Commissioner's preliminary decision pursuant to the provisions of this section shall be submitted to the Administrative Law Court within 15 days from the date on which the appellant learned of the decision

Applicability of Provisions from Chapter 3 regarding the Inquiry (Amendment no. 4) 5768-2008

3.9 The provisions of Sections 31, 32, 32A, 32B and 32C(a) will apply, for purposes of an inquiry pursuant to this chapter, *mutatis mutandis* and with the following changes:

(1) In Section 32(b), at the introduction, "pertaining to an import price or an export price" shall read "pertaining to increased imports";

(2) In Section 32A(b), the words "with consultation with the chairman of the Advisory Committee" – shall not be read.

Title C: Commissioner's Findings, Conclusions and Recommendations

Conclusion of Inquiry and Submission of Findings, Conclusions and Recommendations (Amendment no. 4) 5768-2008

3.10 (a) The Commissioner shall conclude the inquiry and shall submit to the Minister, no later than 215 days from the date of initiating the inquiry, the inquiry findings and his reasoned conclusions and recommendations (in this Chapter – the inquiry findings), and *inter alia* –

(1) Conclusions regarding the existence of increased imports including in relation to the average amount of imported goods during the last three representative years and regarding the existence of serious injury to the domestic industry and a causal link, as stated in Section 3C(b);

(2) Recommendations regarding –

(a) The necessity of taking safeguard measures, in view of the conclusions as stated in paragraph (1), for the benefit of the

economy in its entirety and in order to facilitate the adjustment of the domestic industry to competitive conditions with the imported goods;

(b) The type of safeguard measure that shall be taken, its rate, conditions, applicability and period of validity; the Commissioner's recommendation regarding taking safeguard measure of a quota type to restrict import of goods, shall include a recommendation regarding the manner of allocation of said quota among the exporting countries of the imported goods.

(b) Upon submission of the inquiry findings pursuant to the provisions of subsection (a), the Commissioner shall submit the inquiry findings to an involved party and also to a competent authority in the exporting country of the imported goods, subject to the provisions of Section 32B as applied in Section 3I.

Determining the Existence of Serious Injury (Amendment no. 4) 5768-2008

3.11 (a) When the Commissioner comes to determine the existence of serious injury to a domestic production industry, he shall consider, *inter alia*, the following:

- (1) The volume of increased imports and the import conditions of the imported goods;
- (2) The impact of the increased imports on the price in Israel of goods, which have been produced in Israel, which are similar goods to the imported goods or of competing goods with the imported goods; for this purpose, the Commissioner shall examine, *inter alia*, whether the price of the imported goods is significantly lower in comparison with such similar or competing goods;
- (3) The impact of the increased imports on the domestic industry; for this purpose the Commissioner shall examine all the economic factors and indexes pertaining to the domestic industry, and *inter alia*, the impact on sales, profits, output, market share, productivity and employment of the domestic industry.

(b) The Commissioner shall base his determination regarding the existence of a threat to serious injury as stated in Section 3C(b)(2) on facts, and not merely on conjecture or a remote possibility; when coming to determine the existence of threat to serious injury, the Commissioner shall consider, in addition of the considerations stated in subsection (a), *inter alia*, the following:

- (1) The rate of increase in the volume of import of the imported goods;
- (2) A possibility for an increase in the volume of increased imports due to a possible increase in the production capacity of the imported goods.

Determining the Existence of Causal Link (Amendment no. 4) 5768-2008

3.12 The Commissioner, when coming to determine the existence of a causal link between the increased imports and the serious injury to the domestic industry, he shall examine all the evidence pertaining to the issue that are available to him; in addition, the Commissioner will examine any other known factor, other than the

increased imports, which caused injury to the domestic industry at that time.

Title D: Taking Safeguard Measures

Minister's Decision to
Take Safeguard
Measures (Amendment
no. 4)
5768-2008

3.13 (a) Should the Commissioner submit the inquiry findings to the Minister pursuant to Section 3J, and according to his conclusions, there exist increased imports, serious injury to the domestic industry and a causal link, as stated in Section 3C(b), the Minister shall submit the inquiry findings to the Finance Minister and shall decide, within 40 days from the date he was presented therewith, whether to take, by order, safeguard measures pursuant to the provisions of Title E (in this Chapter – order imposing safeguard measures), or not to take such measures, taking into consideration, *inter alia*, arguments relating to the economy as a whole, and for purposes of this matter, the Minister is entitled to take into consideration Israel's trade relations with foreign countries.

(b) Should the Minister decide, pursuant to subsection (a) to impose a safeguard levy pursuant to the provisions of Section 3P, he shall forward his decision to the approval of the Finance Minister; should the Finance Minister approve the Minister's decision, or should he fail to notify the Minister as to the refusal to approve it within 15 days from the date of forwarding the notification thereto, the Minister shall impose, within five days, a safeguard levy.

(c) A notification as to the Minister's decision pursuant to subsection (a) shall be submitted to a involved party and to a competent authority in the exporting country, within five days from the date of making the decision not to issue an order imposing safeguard measures, or from the date of issuing the order, as the case may be.

Repeated Safeguard
Measures (Amendment
no. 4)
5768-2008

3.14 (a) Notwithstanding the provisions of Section 3M, the Minister shall not decide to take safeguard measures as stated in the foregoing section for purposes of imported goods in respect of which a previous order was issued which imposes safeguard measures, unless a period equal to half the validity period or a period of two years has elapsed from the expiration date of the previous order, the latest of the two.

(b) Notwithstanding the provisions of subsection (a), the Minister may take repeated safeguard measures for a period not exceeding 180 days notwithstanding the expiration of the period set in the foregoing subsection, provided that all the following are met:

(1) At least one year has elapsed from the date of expiration of the previous order;

(2) No safeguard measures have been taken in respect of imported goods more than twice in the five years preceding the date of the decision to take repeated safeguard measures.

Title E: Type of Safeguard Measures, Applicability, Rate and Validity

Type of Safeguard
Measures and
Applicability
(Amendment no. 4)
5768-2008

3.15 (a) The following are the safeguard measures that the Minister is entitled to take by order imposing a safeguard levy:

(1) A safeguard levy pursuant to Section 3P;

(2) A quota for limiting the import of goods pursuant to Section 3Q (in this Chapter – import quota).

(b) The safeguard measures shall be at the rates required to prevent the serious injury to the domestic industry and to enable the domestic industry to adjust to the competitive conditions with the imported goods.

(c) The safeguard measure shall apply to a certain type of imported goods in respect of which there have been increased imports as determined by order imposing safeguard measures, to certain imported goods in respect of which there have been increased imports or to imported goods from a certain country in respect of which there have been increased imports.

Safeguard Levy - Rate
and Goods for which it
shall be Paid
(Amendment no. 4)
5768-2008

3.16 (a) A safeguard levy shall be at a rate of the imported goods' value, at a fixed amount or according to a different calculation, and for a period of time not exceeding the period set in Section 3Q, as the Minister determined by order imposing safeguard measures.

(b) An order imposing safeguard measures as stated in subsection (a) (in this Chapter – Order Imposing Safeguard) shall apply to the goods specified therein which shall be released from the supervision of the customs authority from the date of the commencement of the order and during the validity period thereof.

(c) Notwithstanding the provisions of subsection (b), should there be deposited a temporary guarantee on the date of commencement of the order, pursuant to Section 3H, the order shall also apply to goods released from the supervision of the customs authority prior to the date of commencement of the order but following the deposit of the guarantee.

Import Quota - Rate
and Manner of
Distribution
(Amendment no. 4)
5768-2008

3.17 (a) The import quota shall be at a rate determined by the Minister by order imposing safeguard measures, in consultation with the Finance Minister, and such that shall not be less than the average quantity of imported goods during the last three representative years preceding the date of imposing the quota, as determined in the inquiry findings as stated in Section 3J(a) (in this section – representative previous period); however, the Minister may determine by order an import quota at a rate lower than such average quantity, if it is required in view of the inquiry findings.

(b) The order imposing safeguard measures as stated in subsection (a) (in this Chapter – order imposing import quota) shall specify the manner of allocation of the import quota among the exporting countries of the imported goods; such manner of allocation shall be made after an attempt has been made to reach an agreement concerning the manner of allocation with such countries that have a substantial share in the volume of imports of the imported goods; however, should such attempt to reach an agreement is not practical, the quota shall be allocated among the exporting countries of the imported goods, relative to their share in such volume of imports of the imported goods during a previous representative period and taking into consideration factors that affect or might affect the import of same goods.

(c) The Minister may determine by order imposing an import quota, the manner of allocation of import quotas among the exporting countries of the imported goods not pursuant to subsection (b) if he deems fit that it is appropriate to do so due to the existence of an exceptional increase, in a previous representative period, in the volume of imports of the imported goods from a particular exporting country relative to the increase in the volume of imports of the imported goods from other exporting countries, pursuant to the investigation findings as stated in Section 3J(a), provided that such distribution is made in an

Validity Period of an Order Imposing Safeguard Measures (Amendment no. 4) 5768-2008

Progressive Liberalization in the Safeguard Measures Imposed for a Period Exceeding One Year (Amendment no. 4) 5768-2008

Forfeiture of Temporary Guarantee (Amendment no. 4) 5768-2008

Re- Examination (Amendment no. 4) 5768-2008

Application to Extend an order (Amendment no. 4) 5768-2008

The Commissioner's Handling of an Application to Extend an Order (Amendment no. 4) 5768-2008

equitable manner under the circumstances towards the exporting countries of the imported goods.

3.18 An order imposing safeguard measures as stated in Section 3M shall be valid for a period of four years from the date of commencement thereof, unless the order specifies a shorter period or the period has been shortened or extended pursuant to the provisions of Title F; in the calculation of such four-year period, the period during which a temporary guarantee has been deposited pursuant to the provisions of Section 3H(b) shall be included.

3.19 Should a validity period exceeding one year be determined in the order imposing safeguard measures, the order shall specify liberalization in the safeguard measure imposed therein, which shall be gradually applicable during the validity period thereof.

3.20 The provisions of Section 32W shall apply, *mutatis mutandis*, to the matter of temporary guarantee deposited in respect of goods regarding which an order imposing a safeguard levy is applicable as stated in Section 3M(b).

Title F: Re-Examination and Validity Extension

3.21 Should a validity period exceeding three years be set by order imposing safeguard measures, the Commissioner shall re-examine, during the validity period of the order and no later than the date on which half of said period has elapsed, whether it is appropriate to maintain the order, cancel it or liberalize the safeguard measure imposed therein by increasing the pace of the gradual liberalization set therein, pursuant to the provisions of Section 3S, taking into account the following considerations:

(1) The impact of the safeguard measure on the domestic industry; for that purpose the Commissioner may examine, *inter alia*, the factors and indexes as stated in Section 3K(a)(3);

(2) The progress made in the implementation of the adjustment plan attached to the application to investigate pursuant to Section 3C(c).

3.22 (a) Anyone entitled to submit an application pursuant to the provisions of Section 3C(a) is entitled to submit to the Commissioner a reasoned application, in writing, to extend an order imposing safeguard measure due to the fact that the expiration of the order might lead to the continuation or recurrence of increased imports and to serious injury to the domestic industry.

(b) An application to extend such order as stated in subsection (a) shall be submitted to the Commissioner at least six months prior to the expiration of the order, and regarding an order whose validity period does not exceed two years – at least three months prior to the date of expiration thereof; the complaint shall submit information regarding the progress in the implementation of the adjustment plan attached to the application to carry out an inquiry pursuant to Section 3C(c).

(c) Should a complaint be submitted to the Commissioner pursuant to this section, the order imposing the safeguard measure shall be valid until the Minister makes a decision pursuant to the provisions of Section 3X.

3.23 (a) Should a request be submitted to extend the validity of an order imposing a safeguard measure pursuant to Section 3V, the Commissioner shall decide, within 21 days from the date of submission of the request, whether there is *prima facie base* for the request.

(b) Should the Commissioner decide pursuant to the provisions of subsection (a) that the request does not have *prima facie* base, he shall notify the complainant to that effect, in writing, noting his reasons.

(c) Should the Commissioner decide, pursuant to the provisions of subsection (a) that the complaint has *prima facie* base, the following provisions shall be applicable:

(1) The Commissioner shall inform to that effect, in writing, within five days from the date of his decision, the applicant, an involved party, any interested party indicated in the request and a competent authority in the exporting country of the imported goods, and a copy of the request and of the Commissioner's decision shall be attached to the notification; the Commissioner may publish a notification as stated in Section 3E(d) which includes an invitation to an interested party not indicated in the request to contact the Commissioner, within seven business days from such date of publication in the newspapers, requesting to receive, in the manner and at the time determined by the Minister, a copy of the request and of the Commissioner's decision;

(2) Anyone receiving, pursuant to the provisions of paragraph (1), a copy of the request and of the Commissioner's decision, may submit his repose, in writing, to the request, within 30 days from the date he was presented with such copy;

(3) The Commissioner shall examine the request and submit the inquiry's findings to the Minister within 155 days from the date of his decision as stated in this subsection.

Minister's Decision on the Application to Extend an Order (Amendment no. 4) 5768-2008

3.24 (a) The Minister shall decide within 15 days from the date he was presented with the inquiry findings pursuant to Section 3W(c)(3), taking into account the considerations stated in Section 3M(a), whether to maintain the order imposing a safeguard measure, cancel it or extend the validity thereof by an additional period, provided that the total of the entire validity period of the order does not exceed eight years; should the Minister decide to extend the validity of the order, the provisions of Sections 3R and 3S shall apply to the matter of the extension period.

(b) A notification as to the Minister's decision pursuant to subsection (a) shall be submitted, within five days from the date of making it, to a competent authority in the exporting country of the imported goods, to the applicant and to a notified party, together with the inquiry findings.

Applicability of Provisions (Amendment no. 4) 5768-2008

3.25 The authorities granted to the Commissioner pursuant to this chapter, including in the matter of imposing temporary guarantee, shall be granted to him also in respect of a re-examination procedure and in respect of handling applications to extend an order pursuant to this Title.

Title G: Miscellaneous Provisions

Applicability of Miscellaneous Provisions from Chapter (Amendment no. 4)

3.26 The provisions of Sections 32HH, 32II, 32JJ and 32KK shall apply, *mutates mutandis*, to the matter of the Commissioner's authorities, proceedings and notifications pursuant to this chapter.

5768-2008
Validity of Laws
(Amendment no. 4)
5768-2008

3.27 The provisions of this chapter shall apply in addition of that is stated in every law.

(Amendment no. 3)
5765-2005

Chapter Three: Anti-Dumping Duty and Countervailing Duty

(Amendment no. 3)
5765-2005

Title A: Definitions

(Amendment no. 3)
5765-2005

4. In this chapter —

(Amendment no. 4)
5768-2008

“consumer organization” — as defined in Article 31 (c) of the Consumer Protection Law, 5741-1981[2] 2;

“World Trade Organization Agreement” - (erased);

“Agriculture Agreement” - (erased);

“Subsidies Agreement” — the Agreement on Subsidies and Countervailing Measures, provided as Appendix 1A to the World Trade Organization Agreement;

“goods” - (erased);

“similar goods”, regarding imported goods – goods that are identical in all respects to the imported goods and, in the absence of identical goods as stated — goods which, even though not completely identical to the imported goods, have similar characteristics thereto, to a great extent;

“imported goods” — goods imported into Israel regarding which a complaint was submitted pursuant to the provisions of section 21;

“dumped imports” — as defined in Title Three;

“imports at a subsidized price” — as defined in Title Four;

“special relationship” — a relationship between parties as set forth below, provided that there is a reasonable basis to assume, in the circumstances of the matter, that said relationship is affecting the business considerations of the parties:

- (1) One of the parties controls the other, directly or indirectly;
- (2) The parties are controlled by a third party, directly or indirectly;
- (3) The parties jointly control a third party, directly or indirectly;

In the matter of this definition, a person shall be deemed to control another when he is in a legal or practical position enabling him to restrict or direct the activities of another;

“export price” — as defined in section 14;

“normal price” — as defined in sections 10 and 13;

“complainant” — someone who submitted a complaint pursuant to the provisions of section 21;

“production costs” — including fixed expenses, variable expenses and overhead expenses;

“domestic industry”, regarding goods that are similar to imported goods – all the producers in Israel of the like goods or part of said manufacturers, whose overall production constitutes a significant proportion of the total domestic production of the similar products, except for producers as set forth below, if the Commissioner so decides regarding a particular investigation, for reasons that shall be recorded:

(1) Producers of like goods that have a special relationship with an exporter or importer of the imported goods;

(2) Producers of the like goods that are also importers of the imported goods;

“notified party” — as defined in section 28.

“interested party” — any one of the following:

(1) a producer, exporter or importer of imported goods and an organization in which said producers, exporters or importers are members;

(2) A producer in Israel of the goods that are similar to the imported goods and an organization in which said producers are members;

(3) A competent authority in the country which is a party to an investigation process pursuant to this chapter;

“competent authority” of a foreign country — the authority in the foreign country that is responsible for foreign trade;

“rate of dumping” — the difference between the normal price and the export price, after their comparison pursuant to the provisions of section 15;

“rate of subsidization” — as defined in section 18;

“specific subsidization” — as defined in section 17.

(Amendment no. 3)
5765-2005
The Commissioner
(Amendment no. 3)
5765-2005

Title B: The Commissioner and the advisory committee

5. The Minister shall appoint a Commissioner with knowledge and expertise in economics and foreign trade, who shall fulfill the duties imposed upon him pursuant to the provisions of this chapter.

The Advisory
Committee
(Amendment no. 3)
5765-2005

6. (a) An advisory committee shall be appointed to the Minister regarding anti-dumping duty and countervailing duty, and it shall have the following members:

(1) six public representatives, including at least two jurists, five of whom shall be appointed by the Minister and one of whom shall be appointed by the Minister of Finance;

(2) four employees of the Ministry of Industry, Trade and Labor who shall be appointed by the Minister;

(3) four employees of the Ministry of Finance, who shall be appointed by the Minister.

(b) With regard to a complaint concerning goods in a field handled by a government ministry that is not represented on the committee, or which has implications for a matter in a field that it handles, a representative of that Ministry shall be added to the committee as an additional member, who shall be appointed by the Minister who heads that Ministry.

(c) Members of the committee shall have knowledge and expertise in economics or foreign trade.

(d) The Minister shall appoint the committee chairman and deputy chairman from among the public representatives who are jurists.

(e) The committee chairman shall appoint the committee panels from among

the committee members; seven members shall be appointed to each panel, at least one of whom shall have expertise in foreign trade, and these shall be:

- (1) the chairman of the committee or his deputy, and he shall be chairman of the panel;
- (2) two public representatives, one of whom was appointed by the Minister of Finance;
- (3) two employees of the Ministry of Industry, Trade and Labor;
- (4) two employees of the Ministry of Finance;

However, with regard to complaints as stated in subsection (b), the panel chairman shall add to the panel the representative of the government ministry as stated in that subsection.

(f) Should a committee member be absent from three consecutive meetings to which he was summoned or from a number of meetings exceeding half the number of meetings that were held in the 12 months after his appointment — he shall cease to serve as a member of the committee.

(g) Should the place of a committee member become vacant, a new member shall be appointed to the committee within 30 days, in the manner set forth in subsection (a).

(h) The chairman of the committee, his deputy and the other public representatives therein shall be paid recompense and expenses as determined by the Minister.

(i) The Commissioner and employees of the Ministry of Industry, Trade and Employment subordinate thereto shall not be appointed as committee members.

7. (a) Three members of the committee panel, including the panel chairman, shall constitute a quorum in meetings of the advisory committee.

(b) (1) A member of the advisory committee shall not participate in deliberations of the committee panel if he has a personal interest in the matter deliberated by the panel;

(2) A member of the advisory committee shall not participate in deliberations of the committee panel if his other occupations are liable to create a concern of conflict of interest with the matter deliberated by the panel;

(3) If a member of the advisory committee served as Commissioner before his appointment to the committee, he shall not participate in deliberations of the committee panel regarding a complaint that he handled as Commissioner.

(c) Resolutions of the advisory committee shall be passed by a majority of panel members present at that meeting; if there is a tied vote, the vote of the panel chairman shall decide.

(d) The Commissioner or his representative shall be present at every meeting of the committee panel.

8. The deliberations of the advisory committee and its panels shall take place behind closed doors.

(Amendment no. 3)
5765-2005
Dumped Imports
(Amendment no. 3)
5765-2005

Determining Normal
Price
(Amendment no. 3)
5765-2005

Title C: Dumped imports

9. Dumped imports are imports of goods at a price that is lower than their normal price.

10. (a) The normal price of imported goods is the comparable price of goods similar to the imported goods intended for domestic consumption in the exporting country, which are sold in the domestic market of the exporting country in the ordinary course of trade.

(b) If there were no sales of goods similar to the imported goods in the domestic market of the exporting country during the ordinary course of business, or a proper comparison cannot be conducted between the price of imported goods and the price of goods similar thereto in the exporting country pursuant to the provisions of subsection (a) due to the market conditions in the exporting country or due to the sales volume of the like goods in that country, the normal price shall be determined pursuant to one of the following:

- (1) The price of the like goods when they are exported to a third country with market conditions that are comparable to the exporting country, provided that said price is a representative price;
- (2) The total cost of production of the like goods, in the exporting country, with the addition of reasonable profit;

(c) If goods are not imported directly from the exporting country, the Commissioner shall be entitled, notwithstanding the provisions of subsections (a) and (b), to determine that the normal price of said goods shall be the price of like goods in the country of production and not in the exporting country, *inter alia*, if one of the following exists:

- (1) the exporting country served solely for trans-shipment of the goods;
- (2) the goods are not produced in the exporting country;
- (3) the normal price cannot be determined for the goods in the exporting country pursuant to the provisions of subsection (a).

(d) The Commissioner may determine, in the matter of this section, that the sale of goods similar to the imported goods is not in the ordinary course of may, *inter alia*, for the following reasons:

- (1) the sale is between parties that have a compensatory arrangement between them; and in this matter, "compensatory arrangement" is an arrangement regarding consideration for the sale of goods which includes a benefit above the sale price;
- (2) the sale is between parties that have a special relationship.

Volume Of Sales For
Determining The
Normal Price
(Amendment no. 3)
5765-2005

11. In the matter of section 10 (a), the volume of sales of the goods that are similar to the imported goods on the domestic market of the exporting country, which is required for the purpose of determining the normal price, is at least 5% of the sales of the goods imported into Israel, unless proven to the satisfaction of the Commissioner that a lower sales volume is sufficient to make a proper comparison for the purpose of determining the normal price, as stated in that section.

Sales At A Price Lower
Than Production Costs
(Amendment no. 3)
5765-2005

12. (a) The Commissioner may determine that sales of goods that are similar to the imported goods in the domestic market of the exporting country or sales of goods as stated to a third country, at a lower price than the per unit production costs are not in the ordinary course of trade, and not to take them into account in

determining the normal price pursuant to the provisions of section 10 (a) , when the following conditions exist:

- (1) The sales were implemented during a period of at least one year, however, the Commissioner may determine a shorter period, provided that it shall not be less than six months;
- (2) The sales are in substantial quantities; in this matter, sales for which one of the following exists shall be deemed sales insubstantial quantities:
 - (a) the weighted average of the sale price of the like goods in sales taken into account for the purpose of determining the normal price, is below the weighted average of the per unit production costs;
 - (b) the volume of sales at the price that is below the per unit production costs, constitutes at least 20% of the volume of sales under consideration for the purpose of determining the normal price;
- (3) The sales are at a price that do not cover the total production costs within a reasonable time; in this matter, a price that is below the per unit production costs at the time of the sale, but higher than the weighted average of the per unit production costs during the period under review, as defined in section 25, shall be deemed a price that covers the production costs within a reasonable time.

(b) The Minister shall determine provisions for calculating the production costs pursuant to the provisions of this section.

Price Of Goods That Is
Affected By
Intervention Of The
State In Trade
(Amendment no. 3)
5765-2005

13. (a) If the exporting country of the imported goods is a country in which the price of goods for its domestic consumption or for export is affected by state intervention in trade, whether trade by the state itself or through corporations in which the state has influence, the Commissioner may, notwithstanding the provisions of section 10, determine the normal price of the imported goods according to one of the following:

- (1) the price of goods similar to the imported goods, intended for its domestic needs, which are sold in the ordinary course of business in a third country in which the price of the goods is not of affected as stated and in which there are economic conditions enabling a proper comparison between the prices (in this section — a country that has a market economy);
- (2) the price of goods similar to the imported goods in a country that has a market economy;
- (3) the total cost of production of goods similar to the imported goods in a country that has a market economy, with the addition of reasonable profit.

(b) If it is not possible to determine the normal price according to the provisions of paragraphs (1) to (3) of subsection (a) due to lack of data on the price or production costs as stated in those paragraphs, the Commissioner may determine the normal price in any other reasonable manner.

Export Price And The
Determination Thereof
(Amendment no. 3)
5765-2005

14. (a) The export price of imported goods is the price that was actually paid or payable for them , at the time of their sale for export from the exporting country to Israel.

(b) Should the Commissioner find that the imported goods have no export

price as stated in subsection (a) or that the export price is not reliable because of the existence of a special relationship or compensatory arrangement as defined in section 10 (d) (1) between the exporter and the importer or a third party, he may determine the export price according to the price at which the goods were first sold after their sale for export, as stated in subsection (a), in an arm's length transaction, and if the goods were not sold as stated or if they were sold in a state different than the state in which they were imported, the Commissioner may determine the export price on another reasonable basis.

(c) Should an importer in a foreign country undertake to indemnify the importer, directly or indirectly, for an anti-dumping levy, in whole or in part, that shall obligate the importer pursuant to the provisions of this Law vis-à-vis the imported goods, the amount of said indemnification shall be deducted from the export price determined pursuant to the provisions of subsections (a) and (b).

Comparison Of The
Export Price And The
Normal Price
(Amendment no. 3)
5765-2005

15. (a) The Commissioner shall conduct a comparison in the matter of section 9 between the export price and the normal price; the comparison shall be conducted on the same level of trade, generally at the ex-works level, and regarding sales that were made as close a period of time as possible; for the purpose of the comparison, and taking into account the circumstances of the event, differences that affect the price comparison shall be taken into account, inter alia, differences in the sale conditions, in the taxation, in the commercial level, in the quantities and in physical attributes, and other differences, which have been proven, to the satisfaction of the Commissioner, to affect the comparison of the prices.

(b) A notified party, as defined in section 28 (c), that claims the existence of differences as stated in subsection (a), which affect the comparison between the export price and the normal price, shall provide the Commissioner with proof thereof.

(c) The Minister may determine provisions regarding the manner of implementing the comparison between the export price and the normal price, pursuant to the provisions of this section.

(Amendment no. 3)
5765-2005
Imports At
Subsidized Price
(Amendment no. 3)
5765-2005

Title D: Imports at subsidized prices

A 16. (a) Imports at a subsidized price is the import of goods wherein the producer or the exporter in the country of production receives a subsidy, directly or indirectly.

(b) For the purposes of this chapter, financial contribution by the government or by a public body in the country of production (in this chapter — the subsidizing body), shall be deemed a subsidy as set forth in paragraphs (1) to (5), and any financial contribution or other action by the subsidizing body which ensures, directly or indirectly, the income of the producer or the exporter or the level of the prices of the exported goods, provided that said participation or action confers a benefit to the recipient of the subsidy:

(1) direct transfer of funds from the subsidizing body, including the provision of a grant, loan or investment, and the transfer of funds contingent upon the existence of certain conditions, including a surety to secure the loan;

(2) income foregone that is otherwise due to the subsidizing body or non-collection of said income, inter alia, by way of providing a financial incentive, including a tax credit and excluding an exemption given, for exported goods, from a duty or tax levied on goods that are similar

thereto, which are intended for its domestic consumption or drawback of a levy or tax as stated that were paid for the exported goods;

(3) the provision of goods or the provision of services by the subsidizing body, excluding general infrastructure services, and the purchase of goods by the subsidizing body;

(4) transfer of funds from the subsidizing body to a funding mechanism;

(5) Implementation of one of the actions stated in paragraphs (1) to (3) by a private body pursuant to instructions by the subsidizing body which would normally be vested in the subsidizing body and the practice in no sense differs from practices normally followed by the by the subsidizing body.

Specificity
(Amendment no. 3)
5765-2005

17. (a) In this section —

“certain enterprises” — a certain enterprise or branch of industry or of a certain type;

“specific subsidization” — subsidy given to certain enterprises.

(b) Procedures pursuant to this chapter regarding imports at a subsidized price shall be implemented only when the subsidization is specific, and in this matter, the following provisions shall apply:

(1) Should the subsidizing body or the legislation pursuant to which it acts explicitly restrict provision of the subsidization to certain enterprises, the subsidization shall be deemed specific subsidization;

(2) Should the subsidizing body act, with regard to providing the subsidization and the rate thereof, pursuant to objective criteria and conditions, the subsidization shall not be deemed specific subsidization, provided that said objective criteria and conditions were set forth in legislation or in administrative orders and the subsidization is granted to anyone who fulfills them; in this matter, “objective criteria and conditions” — criteria and conditions, economic in nature, which are practical, uniform and fair, and do not favor certain enterprises, and *inter alia*, criteria and conditions regarding the number of employees in a enterprises or the size of the enterprise;

(3) (a) With regard to subsidization which, pursuant to paragraphs (1) and (2) is not specific subsidization, the Commissioner shall be entitled to determine, notwithstanding that stated in said paragraphs, that it is specific subsidization, *inter alia*, for the following reasons:

(1) All the subsidization monies or a significant rate thereof were actually given to certain enterprises;

(2) The manner of exercising discretion in the hands of the subsidizing body in deciding to provide subsidization attests to the fact that the subsidization is specific.

(b) A determination such as that stated in subparagraph (a) shall be made with attention to, *inter alia*, the variety of economic activities in the jurisdiction of the subsidizing body, their scope and the duration of time in which the subsidizing body operates the subsidization program, in the framework of which said

subsidization is given;

- (4) Subsidization that is restricted to certain enterprises located in a defined geographic area in the jurisdiction of the subsidizing body shall be deemed specific subsidization; however, in this matter, the determination or change of generally applied tax rates by the authority competent to do so under law shall not be deemed specific subsidization;
- (5) Subsidization as set forth below shall be deemed specific subsidization:
 - (1) Subsidization, the granting of which is conditional, pursuant to legislation or in actual practice, on export, whether as a single condition or jointly with other conditions;
 - (2) Subsidization, the granting of which is conditional on preference for the use of domestically produced goods over the use of imported goods, whether as a single condition or jointly with other conditions.

Calculating The Rate
Of The Subsidization
(Amendment no. 3)
5765-2005

18. For the purposes of this chapter, the rate of subsidization given to the subsidy recipient as stated in section 16 shall be calculated according to the amount of the benefit confirmed by the subsidy recipient, due to the subsidy, and the following provisions shall apply in this matter:

- (1) A government provision of equity capital for the purpose of maintaining means of control shall not be deemed a benefit unless the investment exceeds the usual investment practices;
- (2) A loan from the subsidizing body shall not be considered as confirming a benefit to the loan recipient, unless the amount that the loan recipient paid therefor is lower than the amount that it would have paid for a similar commercial loan in market conditions; if the amount paid by the loan recipient therefor is lower as stated, the size of the benefit shall be deemed the difference between the amount paid and the amount it would have paid, as stated, in this paragraph;
- (3) Security given by the subsidizing body to secure a loan shall not be deemed a benefit for the loan recipient unless the amount that the loan recipient paid therefor, including commissions, is lower than the amount that it would have paid for a similar commercial loan in market conditions, including commissions, for the securing of which security is given, not by the subsidizing body; and if the amount paid by the loan recipient therefor is lower as stated, the size of the benefit shall be deemed the difference between the amount paid and the amount it would have paid, as stated, in this paragraph;
- (4) The supply of goods or the provision of services by the subsidizing body or the purchase of goods thereby shall not be deemed a benefit for the subsidy recipient unless the consideration given to the subsidizing body for the supply of the goods or provision of the services is less than appropriate consideration or the consideration that was given by the subsidizing body for purchase of the goods is higher than appropriate consideration; in this matter, the appropriate consideration shall be determined taking into account the market conditions in the country in which the goods were supplied or purchased or in which the services were provided, as the case may be, including the price, quality, and availability of the goods or services, the possibility of marketing

them and the conditions for transporting them.

Imports Not From The
Country Of Production
(Amendment no. 3)
5765-2005

19. In the matter of goods with a subsidized price and the imposition of a countervailing duty pursuant to this chapter, goods shall be deemed imported directly from the country in which they were produced even if they were exported to Israel through another country.

Import Of Agricultural
Products At A
Subsidized Price
(Amendment no. 3)
5765-2005

20. Procedures pursuant to this chapter shall be implemented regarding imports of agricultural products at a subsidized price in accordance with the provisions of Article 13 of the Agreement on Agriculture.

(Amendment no. 3)
5765-2005

Title E: Complaints and the handling thereof

Complaint About
Dumped Imports Or
Imports At A
Subsidized Price
(Amendment no. 3)
5765-2005

21. (a) A producer of goods similar to the goods imported to Israel or anyone representing the producer, shall be entitled to submit a complaint to the Commissioner, in writing, regarding the fact that the goods were imported by dumping or at a subsidized price and that as a result, material injury was caused or threatened to cause to the domestic production industry or that development was prevented of enterprises for producing like goods, whose establishment had commenced.

(b) A complaint as stated in subsection (a) shall include information and evidence regarding each one of those set forth below, as well as additional information to be determined by the Minister, provided that they can be obtained with reasonable effort:

(1) The existence of dumped imports or imports at a subsidized price, and in a complaint about imports at a subsidized price — also the existence of specific subsidization, and the rate of dumping or the rate of the subsidization, all as the case may be;

(2) The existence of material injury or the threat of material injury to the domestic industry of the like goods, or the prevention of development of enterprises for producing like goods, whose establishment had begun (in this chapter — material injury to the domestic industry);

(3) The existence of a causal link between the dumped imports or the imports at a subsidized price, as the case may be, and the material injury to the domestic industry.

Prohibition On
Publication Of The
Submission Of A
Complaint
(Amendment no. 3)
5765-2005

22. Subject to the provisions of section 23, the Commissioner or anyone on his behalf shall not disclose and shall not publicize the fact of the submission of a complaint as stated in section 21, unless he decides, pursuant to the provisions of section 24, to initiate an investigation.

Notification To The
Competent Authority In
The Exporting Country
(Amendment no. 3)
5765-2005

23. (a) Should a complaint be submitted pursuant to the provisions of section 21 regarding dumped imports and, in the opinion of the Commissioner, the provisions of said section are fulfilled therein, the Commissioner shall notify the competent authority in the exporting country of submission of the complaint, before giving his decision on initiating an investigation pursuant to the provisions of section 24.

(b) Should a complaint be submitted pursuant to the provisions of section 21 regarding imports at a subsidized price and, in the opinion of the Commissioner, the provisions of said section are fulfilled therein, the Commissioner shall give notice, as stated in subsection (a), to any competent authority in the country that may be a party to the investigation process, and he shall inform it of the opportunity given to it, in accordance with the provisions of the Subsidies Agreement, to reach an agreed solution before the date stated in section 24 (c) for making a decision on initiating an

investigation.

24. (a) Should a complaint be submitted pursuant to the provisions of section 21 and all the following are fulfilled, the Commissioner shall initiate an investigation of the complaint:

(1) The complaint is supported by producers in Israel of goods similar to the imported goods, whose overall production constitutes more than 50% of the overall output of producers in Israel of the like goods who expressed support for the complaint or opposed it, and no less than 25% of the total production of the domestic industry;

(2) The Commissioner found, after examining the information and evidence included in the complaint, including their accuracy and reliability, and additional information that was available to him, that there is adequate prima facie evidence to fulfill that stated in section 21 (b);

(3) With regard to a complaint about imports at a subsidized price — the competent authorities to which notification was given pursuant to the provisions of section 23 (b) did not reach an agreed solution as stated in that section before the date for making a decision on initiating an investigation as stated in subsection (c).

(b) Notwithstanding the provisions of subsection (a), should the Commissioner find, before the date for deciding on initiating an investigation as stated in subsection (c), that the provisions of section 32 (g) have been fulfilled, no investigation shall be initiated.

(c) The Commissioner shall decide on initiating an investigation pursuant to this section within 21 days of the date of submission of the complaint, however he may, for special reasons that shall be recorded, to extend said period by an additional period that shall not exceed 30 days.

(d) The Commissioner may, under special circumstances, initiate an investigation at his own initiative, even without the submission of a complaint as stated in subsection (a), provided that he found that there is sufficient evidence to fulfill that stated in section 21 (b); the investigation initiated as stated shall be subject to the provisions of this chapter, *mutatis mutandis*.

25. (a) The period regarding which the Commissioner shall conduct the investigation pursuant to the provisions of this chapter (in this section — the period under investigation) shall be determined by him, provided —

(1) that the period under investigation for the purpose of determining the rate of the dumping or the rate of the subsidization shall not be less than six successive months before the date of submission of the complaint and shall not exceed 12 successive months before said date;

(2) that the period under investigation for the purpose of determining the existence of material injury to the domestic industry shall not exceed three successive years before the date of submission of the complaint.

(b) The Commissioner may, for special reasons that shall be recorded, extend or shorten the period under investigation as stated in subsection (a) (1) or (2), provided that the period under investigation shall not continue beyond the date of submission of the complaint.

(c) Notwithstanding the provisions of subsection (b), the Commissioner may, in extraordinary cases and for reasons that shall be recorded, to investigate, for the purpose of determining the rate of the dumping or the rate of the subsidization, or for the purpose of determining the existence of material injury, as stated in paragraphs (1) and (2) of section 21 (b), information relating to the import of goods in respect of which an investigation is being conducted, implemented after the date of submission of the complaint.

Notification By The
Commissioner
Regarding Opening An
Investigation
(Amendment no. 3)
5765-2005

26. (a) Should the Commissioner decide, pursuant to the provisions of section 24, not to initiate an investigation, he shall notify the complainant to that effect, in writing, noting his reasons.

(b) Should the Commissioner decide, pursuant to the provisions of section 24, to initiate an investigation, he shall provide notification to that effect, in writing, within five days from the date of his decision, to the complainant, to the producer of the imported goods and to the competent authorities in the countries that are parties to the investigation process, and to the exporter and the importer, insofar as their identities are known to him; the notification shall include the details stated in subsection (c) and a copy shall be attached of the complaint and the Commissioner's decision to initiate an investigation; if there is a large number of exporters, the Commissioner shall be entitled not to attach to the notification, sent to them pursuant to the provisions of this paragraph, a copy of the complaint and the Commissioner's decision, and this shall be noted in the notification given to the competent authority in the exporting country.

(c) In the notification as stated in subsection (b), the nature of the complaint, the name of the complainant, the type of imported goods, the producing country, the exporting country and the date of initiating the investigation shall be noted.

(d) The notification as stated in subsection (b) shall be published, within the time stated in the aforementioned subsection, in two daily newspapers with a large circulation in Israel. The publication shall include an invitation to an interested party to contact the Commissioner within seven days from the date of publication in said newspapers, with a request to receive, in the manner and at the time determined by the Minister, a copy of the complaint and of the Commissioner's decision to initiate an investigation.

Response Document
(Amendment no. 3)
5765-2005

27. (a) An interested party shall be entitled to submit its response to the complaint, in writing, within 30 days from the date on which it was presented with a copy of the complaint and the Commissioner's decision, pursuant to the provisions of section 26 (b) and (d), as the case may be. The response shall contain information and evidence in any matter pertaining to the investigation (in this chapter — response document).

(b) The Commissioner may, for special reasons that shall be recorded, extend the period specified in subsection (a) by an additional period that shall not exceed 30 days.

(c) The Minister may determine details of information and evidence that an interested party must include in the response document.

Preliminary Decision
(Amendment no. 3)
5765-2005

28. (a) The Commissioner shall make a preliminary decision in the following matters, within a period that shall commence 60 days from the date of his decision to initiate an investigation pursuant to the provisions of section 24 and shall end 90 days from the date of said decision (in this chapter — preliminary decision):

(1) The prima facie existence or non-existence of dumped imports or imports at a subsidized price and specific subsidization, as the case may

be, of material injury to the domestic industry and of a causal link as stated in section 21 (b);

(2) The need for providing a guarantee to prevent injury that is caused to the domestic industry during the investigation.

(b) The Commissioner may, for special reasons that shall be recorded, to extend the period specified in subsection (a) for an additional 30 days, and for an additional period pursuant to the provisions of section 32 (24).

(c) The Commissioner shall give notice of the preliminary decision that he has made, within five days from the date that the decision was made, to the interested party that submitted a response document pursuant to the provisions of section 27 and to the complainant (in this chapter — notified party) and to the competent authority in a country that is a party to the investigation process, even if it did not submit a response document as stated.

(d) Nothing in the making of the preliminary decision shall serve to terminate the investigation of the complaint pursuant to the provisions of this chapter.

(e) An appeal of the Commissioner's preliminary decision pursuant to the provisions of this section shall be submitted to the Administrative Law Court within 15 days from the date on which the appellant learned of the decision or from the date of its publication in the Official Gazette, whichever is the earlier.

Temporary Guarantee
(Amendment no. 3)
5765-2005

29. (a) Should the Commissioner determine in his preliminary decision that it is necessary to provide a guarantee, he shall determine in his decision the rate of the guarantee and the period of time for which it shall be deposited, and he shall so notify the director as close as possible to the making of the decision.

(b) The rate of the guarantee shall be the estimated rate, in the opinion of the Commissioner, of the anti-dumping duty or the countervailing duty, as the case may be, that shall apply to those goods pursuant to the provisions of sections 32 (19) and 32 (20).

(c) The period during which the guarantee shall be deposited shall not exceed the period as set forth below:

(1) With regard to an investigation of dumped imports — six months; however, the Commissioner may, at the request of the exporters of the imported goods that export to Israel a significant rate of said goods, extend said period by the three additional months;

(2) With regard to imports at a subsidized price — four months.

(d) An importer shall not be required to deposit an additional temporary guarantee with regard to goods that have been released by the Customs supervisory authority after the periods of time stated in subsection (c) in the framework of that investigation.

(e) Should the Commissioner notify the director as stated in subsection (a), the director shall demand a guarantee from every importer of the imported goods at the rate notified by the Commissioner, and he shall instruct that the release of said goods be delayed from the supervision of the Customs Authority until deposit of the guarantee.

Rights Of A Notified
Party
(Amendment no. 3)

30. (a) A notified party shall be entitled to submit to the Commissioner, in writing, additional claims, evidence or information pertaining to the investigation

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that were not before the Commissioner at the time of making the preliminary decision, within 30 days from the date on which said decision was presented to him, and the Commissioner may, for special reasons that shall be recorded, to extend said period by an additional period that shall not exceed 30 days.

(b) The Commissioner may invite a notified party to also present its claims orally, as submitted in writing.

(c) The Commissioner shall enable a notified party, at its request, to see any information in his possession pertaining to the investigation, provided that it is not confidential information as defined in section 32 (B.).

Submission Of
Information By A
Producer And
Consumer Organization
(Amendment no. 3)
5765-2005

31. The Commissioner shall give an opportunity to those specified below to submit in writing, information and evidence pertaining to the investigation, within the time that shall be determined:

(1) With regard to imported goods serving as input in the process of producing other goods in Israel — for an Israeli producer of the other goods;

(2) With regard to imported goods sold at the retail level in Israel — to the consumer organization.

The Commissioner's
Authority In
Conducting the
Investigation
(Amendment no. 3)
5765-2005

32. (a) In this section —

“computer material” and “output” – as defined in the Computers Law, 5755-1995 [3] 3;

“document” — including a notebook, certificate, calculation, computer material and output.

(b) The Commissioner or anyone he has authorized therefor in writing, may demand the presentation of the document pertaining to the import price or the export price and a response to the questionnaire, within a reasonable time in the circumstances of the matter, which he shall determine, from each one of the following, even if it is domiciled outside Israel:

(1) the complainant;

(2) the producer, the exporter or the importer of the imported goods;

(3) and other person or Authority of the state or an other body, including the subsidizing body, regarding which there is reasonable basis for assuming that they possess information or evidence pertaining to the investigation.

(c) The Commissioner or anyone he has authorized therefor in writing, shall be entitled to enter the premises in the possession of a notified party or in the possession of whoever produced the document or submitted a response to the questionnaire pursuant to the provisions of this section, with the consent of the possessor, in order to verify information or evidence that have been given to him.

Lack Of Cooperation in
the Complaint
Proceedings
(Amendment no. 3)
5765-2005

32.1 (a) If an interested party did not submit to the Commissioner information or evidence pertaining to the investigation, at his demand in accordance with the provisions of this chapter and at the time appointed therefor, or if it submitted them partially, or it did not cooperate for the purpose of advancing the investigation in another way, in whole or in part, the Commissioner may determine findings and make decisions pursuant to the provisions of this chapter on the basis of the information and evidence that were available to him at that time; the Minister may determine the circumstances in which the Commissioner shall be entitled to rely on the information and evidence available to him pursuant to the provisions of this subsection.

(b) Should the complainant not submit to the Commissioner a document or response to the questionnaire, which it was required to submit pursuant to the provisions of section 32, or should it not give its consent to the Commissioner's entrance to its premises pursuant to the provisions of said section, the Commissioner shall be entitled, in consultation with the chairman of the advisory committee, to terminate the handling of the complaint.

Confidential
Information
(Amendment no. 3)
5765-2005

32.2 (a) The Commissioner may determine, with regard to information that was given pursuant to the provisions of this chapter, pursuant to a written request from the party providing the information or at his own initiative, that the information is confidential because its disclosure is likely to cause damage to the party that provided it or to another person.

(b) Should the provider of the information request to determine that information is confidential pursuant to the provisions of subsection (a), it shall attach to its request a summary of the information for which it requests confidentiality; said summary shall contain details that are not confidential regarding the nature of the information for which the confidentiality is requested, to the extent that it is possible to do so without causing damage to the provider of the information or to another person; if the provider of the information believes that the information cannot be summarized without causing damage as stated, it shall specify the reasons for this in writing.

(c) Should the Commissioner determine, pursuant to the provisions of subsection (a), that the information is not confidential, it shall so inform the provider of the information; should the provider of the information not consent to enabling disclosure of the information within the period determined therefor by the Commissioner, said information shall not be taken into account by the Commissioner for the purpose of determining his findings and making a decision pursuant to the provisions of this chapter.

(d) A person who, while fulfilling his duty or in the course of his work, received information that was determined to be confidential information, pursuant to the provisions of subsection (a), shall not disclose it to another and shall not make any use thereof other than under the provisions of this law or any other law or pursuant to an express written authorization from the party that requested the confidentiality of the information.

Examining And
Verifying Information
(Amendment no. 3)
5765-2005

32.3 (a) During the investigation, the Commissioner shall examine the reliability and accuracy of the information and the evidence that were given to him pursuant to the provisions of this chapter and upon which he shall base his findings and decisions; the provisions of this subsection shall not derogate from the provisions of section 32.A.

(b) The Commissioner or anyone authorized by him therefor may, for the purpose of verifying information or gathering additional information pertaining to the investigation, conduct an investigation in the territory of another country which is a party to the investigation proceeding, provided that the competent authority in that country was notified of the investigation in its territory a reasonable time in advance and did not object thereto, and with regard to the investigation of the producer of the imported goods or the exporter in that country – their consent to the investigation was also given.

(c) Should the Commissioner or anyone whom he authorized therefor conduct an investigation pursuant to the provisions of subsection (b), he shall

prepare a report regarding the investigation and shall submit a copy thereof, subject to the provisions of section 32.B, to the producer and the exporter of the imported goods regarding which the investigation was conducted.

(d) Should a producer or exporter of imported goods not give its consent to an investigation pursuant to this section for the purpose of verifying the information that it provided, the Commissioner shall be entitled not to take this information into account in determining his findings and decisions.

(e) The Minister may determine provisions regarding conducting an investigation pursuant to this section, and he may determine various provisions regarding an investigation of dumped imports and regarding an investigation of imports at a subsidized price.

Rate Of Dumping And
Rate Of Subsidization
For Each Producer And
Exporter Separately
(Amendment no. 3)
5765-2005

32.4 (a) A dumping rate or subsidization rate, as the case may be shall be determined separately for every producer and exporter of the imported goods, however, in cases involving many producers, exporters or importers of goods as stated, in which determining the rate of dumping or the rate of subsidization separately is not practical, the Commissioner may limit the examination for the purpose of determining the rate of dumping or the rate of subsidization to one of the following:

(1) A sample examination, that shall be statistically valid, of a reasonable number of producers, exporters or importers as stated or of the imported goods as stated, as the case may be, based on information that was available to the Commissioner at that time;

(2) An examination of the imported goods, that constitute the highest percentage of the overall export volume of the goods imported from the exporting country to Israel, and for which an investigation can reasonably be conducted.

(b) Selection of the producers, the exporters, the importers or the imported goods, as the case may be, for the purpose of conducting an examination pursuant to the provisions of paragraphs (1) and (2) of subsection (a), shall be implemented, as far as possible, after consulting with all the producers, the exporters and the importers that are notified parties, and with their consent.

(c) Should the Commissioner limit his examination pursuant to the provisions of subsection (a), and a producer or exporter of the imported goods submits to him, at its own initiative and within a reasonable time, the information required by him to determine separately the rate of dumping or the rate of subsidization, as the case may be, the Commissioner shall determine for that producer or exporter a separate rate of dumping or a separate rate of subsidization, unless the number of producers and exporters is so great that conducting separate examinations as stated would constitute a heavy burden on the Commissioner and would prevent completion of the investigation on time.

Determining The
Existence Of Material
Injury
(Amendment no. 3)
5765-2005

32.5 (a) When the Commissioner comes to determine the existence of material injury to the domestic industry pursuant to the provisions of this chapter, he shall consider the following:

d (1) The volume of dumped imports or imports at a subsidized price as the case may be; in this matter, the Commissioner shall examine, inter alia, whether during the period under investigation, as this is defined in section 25, there was a significant increase in the volume of said imports, in absolute terms or in relation to the production or the consumption in Israel of goods similar to the imported goods;

(2) The impact of dumped imports or imports at a subsidized price, as

the case may be, on the prices in Israel of goods similar to the imported goods, that were produced in Israel; in this matter, the Commissioner shall examine, inter alia, whether the price of the imported goods is significantly lower than the price of the like goods, if said imports led to a significant decrease in the prices of the like goods or if said it imports significantly prevented an increase in their prices which would have occurred if not for the imports;

(3) The impact of dumped imports or imports at a subsidized price, as the case may be, on the domestic industry; in this matter, the Commissioner shall examine all the economic factors and indices pertaining to the state of the domestic production industry and, including , the following:

- (a) A decline, actual or potential, in sales, in profits, in output, in market share, in productivity, in return on investments and in utilization of capacity;
- (b) Factors that affect prices of the goods that are similar to the imported goods in Israel;
- (c) A negative impact, actual or potential, on cash flow, inventory, employment, wages, growth and the ability to raise capital or investments;
- (d) With regard to investigation of dumped imports — magnitude of the dumping;
- (e) With regard to an investigation of imported agricultural products at a subsidized price — increase in governmental support programs to the domestic industry.

(b) The Commissioner shall assess the impact of the dumped imports or the imports at a subsidized price in accordance with the provisions of this section, with regard to goods similar to the imported goods, produced in Israel, provided that available data exists that enable the separate identification of the like goods, including in respect of the production process, the producers' sales and profits: if it is not possible to separately identify the like goods, the Commissioner shall assess the impact of the imports in relation to the most limited group of goods that include the like products, for which available data exists as stated, which enables its identification separately.

(c) The Commissioner shall base his determination regarding the existence of a threat of material injury as stated in section 21 (3) (2) on facts, and not merely on conjecture or remote possibility, and a change in the circumstances that will lead to the causing of material injury must be anticipated in advance and in the near future; in determining the existence of a threat of material injury , the Commissioner shall consider, inter alia, the following:

- (1) A significant increase in the volume of dumped imports or imports at a subsidized price, as the case may be, which indicates a real possibility that such an increase will continue;
- (2) A significant increase in the production capacity of the imported goods which occurred or which is expected to occur in the near future, which indicates a real possibility of a significant increase in the volume of dumped imports or imports at a subsidized price, as the case may be; in this matter, the Commissioner shall take into account the ability of

other countries to import said goods;

(3) If the cost of the imported goods should lead to a significant decrease in the price of the goods similar to the imported goods, or should prevent a significant increase in their price, so that there is a real possibility of increased demand for the imported goods;

(4) The quantity of the inventory of the imported goods;

(5) With regard to an investigation of imports at a subsidized price — the nature of the subsidy and its possible impact on trade with Israel.

(d) Should an investigation be conducted pursuant to this chapter regarding imported goods that were imported from at least two countries, the Commissioner may, in the matter of this section, assess the cumulative impact of the imports as stated if he finds that the following two exist:

(1) With regard to each one of the countries, the rate of dumping or the rate of the subsidization, as the case may be, is not de minimis and the volume of dumped imports or imports at a subsidized price, as the case may be, is not negligible, as stated in section 32 (g);

(2) The cumulative assessment is compatible in view of the competitive conditions among the imported goods and between them and goods similar to them which are produced in Israel.

Determining The
Existence Of A Causal
Link
(Amendment no. 3)
5765-2005

32.6 In determining the existence of a causal link between the dumped imports or the imports at a subsidized price, as the case may be, and the material injury to the domestic production industry, the Commissioner shall examine all the evidence pertaining to the matter before him; the Commissioner shall also examine every other known factor, aside from the imports as stated, which caused the material injury to the domestic industry at that time and, *inter alia*, the following:

(1) The volume of imports of goods similar to the imported goods that were not dumped imports or imports at a subsidized price;

(2) A contraction in demand for the goods similar to the imported goods or a change in the consumption patterns thereof;

(3) An arrangement between foreign producers and Israeli producers to limit the competition between them;

(4) Technological developments;

(5) A decrease in export performance or in the productivity of the domestic production industry.

Cessation Of
Investigation Due To
Small Value
(Amendment no. 3)
5765-2005

32.7 (a) In this section, “developed country,” “developing country,” and the “less developed country” — as of these are defined in Article 27 of the Subsidies Agreement.

(b) should the Commissioner find, at any stage in his investigation, that the rate of dumping or the rate of subsidization, as the case may be, is de minimis, that the volume of dumped imports or imports at a subsidized price, as the case may be, is negligible or is likely to be negligible, or that the material injury is negligible, he shall terminate the investigation.

(c) (1) In the matter of subsection (b), regarding an investigation of dumped imports —

(a) The rate of dumping shall be deemed de minimis if it is lower than

2% of the export price;

(b) The volume of the dumped imports shall be deemed negligible if the volume of imports from the exporting country is lower than 3% of the overall volume of imports of the goods imported into Israel, unless the volume of imports from several exporting countries, for which that stated in this subsection is true, jointly exceeds 7% of the overall import volume of the goods imported into Israel, or if the Commissioner determined, for special reasons that shall be recorded, that notwithstanding the provisions of this subsection, the volume of imports is not negligible.

(2) In the matter of subsection (b), regarding an investigation of imports at a subsidized price —

(a) The rate of subsidization shall be deemed de minimis with regard to subsidization given in a developed country — if it is lower than 1% of the export price, with regard to subsidization given in a developing country — if it is lower than 2% of the export price, and with regard to subsidization given in a less developed country — if it is lower than 3% of the export price;

(b) The volume of imports at a subsidized price, regarding subsidization given in a developing country, shall be deemed negligible if the volume of imports from that country is lower than 4% of the overall volume of imports of the goods imported into Israel, unless the volume of imports from several developing countries for which that stated in this paragraph is true, jointly exceeds 9% of the overall import volume of the goods imported into Israel.

(d) The Commissioner's decision to terminate an investigation, pursuant to the provisions of this section, shall be given in writing, with the addition of explanations, and shall be sent to the notified party within five days from the date the decision is made.

Conclusion Of The
Commissioner's
Investigation And
Submission of
Findings
(Amendment no. 3)
5765-2005

32.8 (a) The Commissioner shall conclude investigation of the complaint and shall submit the findings of his investigation to the advisory committee, no later than 240 days from the date of initiating the investigation, and he may extend said date by 30 additional days, for reasons that shall be recorded, and by additional periods pursuant to the provisions of section 32.24.

(b) Upon submission of the investigation findings to the advisory committee, pursuant to the provisions of subsection (a), the Commissioner shall submit said findings to the complainant and to the notified party, subject to the provisions of section 32.2, and he shall inform them that they have the option of submitting their arguments in writing to the advisory committee, and also requesting to present them to the committee orally, as stated in section 32.9.

Submission Of
Arguments To The
Advisory Committee
By A Notified Party
(Amendment no. 3)
5765-2005

32.9 A notified party that received the investigation findings from the Commissioner pursuant to the provisions of section 32.8 shall be entitled, within 14 days of the date of receipt of said findings, to submit its arguments in writing to the advisory committee, and to request to present its arguments to the committee orally, as submitted in writing, provided that no new evidence or arguments are presented to the committee that were not submitted to the Commissioner during the investigation pursuant to the provisions of this chapter, unless the committee

Functions Of The
Advisory Committee
(Amendment no. 3)
5765-2005

believes that there are special reasons justifying this, which shall be recorded.

32.10 (a) The advisory committee shall deliberate the investigation findings submitted to it by the commissioner pursuant to the provisions of section 30.8 and the arguments submitted pursuant to the provisions of section 32.9, and it shall invite the notified parties that requested, pursuant to the provisions of said section, to present their arguments before the committee; the committee shall be entitled to invite any other person who can, in its opinion, assist it in formulating its conclusions and recommendations.

(b) The provisions of Titles Three and Four and the provisions of sections 25, 32.1, 32.2 and 32.4 to 32.7 which apply to the commissioner and his investigation and the powers vested in him during the investigation pursuant to these provisions shall also apply to the advisory committee and its deliberations, *mutatis mutandis*, as the case may be.

Conclusions And
Recommendations Of
The Advisory
Committee
(Amendment no. 3)
5765-2005

32.11 (a) The advisory committee shall submit to the Minister, no later than 45 days from the date on which the commissioner submitted the findings of his investigation to the committee, as stated in section 32.8 or by the last date determined pursuant to the provisions of section 32.24, its reasoned conclusions and recommendations and, *inter alia* —

(1) Conclusions regarding the existence of dumped imports or imports at a subsidized price and specific subsidization, as the case may be, regarding the rate of the dumping or the rate of the subsidization, and regarding the existence of material injury to the domestic production industry and a causal link, as stated in section 21 (b);

(2) Recommendations regarding the imposition of an anti-dumping duty or a countervailing duty, its rate, applicability and the period of its validity.

(b) Should the advisory committee reach conclusions whereby that stated in paragraph (1) of subsection (a) was not fulfilled, it shall also submit its conclusions as stated to the notified party and to the competent authority in the country that was a party to the investigation procedure.

(Amendment no. 3)
5765-2005
Taking An Undertaking
(Amendment no. 3)
5765-2005

Title F: Undertaking

32.12 (a) The Commissioner, after giving the complainant an opportunity to present its arguments, and with the consent of the Director General of the Ministry of Industry, Trade and Labor, shall suspend or terminate the handling of the complaint if an undertaking is received to his satisfaction, as set forth below:

(1) With regard to dumped imports — from the exporter of the imported goods, to revise the price of the goods or to cease their export to Israel by dumping, so that the material injury to the domestic production industry caused as a result of the dumped imports will be eliminated;

(2) With regard to an investigation of imports at a subsidized price — from one of the following:

(a) From the subsidizing body, and in the matter of a subsidizing body that is a public body as stated in section 16 — also from the government in the exporting country, to cease the subsidization, to reduce it or to take other measures to eliminate the effect of the subsidization;

(b) From the exporter of the imported goods, to revise the price of the

goods in such manner that it will eliminate the material injury to the domestic industry caused as a result of imports at a subsidized price.

(b) The rate of the change in the price of the imported goods pursuant to the exporter's undertaking as stated in subsection (a) shall not exceed the rate of the dumping or the rate of the subsidization, as the case may be, and it shall be lower than said rate, should the Commissioner find that said lower rate is sufficient to eliminate the material injury to the domestic industry.

(c) The Commissioner may, at his initiative, propose that the exporter or the subsidizing body, as the case may be, give an undertaking pursuant to the provisions of subsection (a); should the exporter or the subsidizing body not respond as stated, this shall not influence, in any manner whatsoever, the Commissioner's findings or decisions, however, he may determine that there is a higher likelihood that material injury will be caused to the domestic industry if the dumped imports should continue.

(d) The Commissioner shall not receive an undertaking pursuant to the provisions of subsection (a) and he shall not propose the provision of an undertaking pursuant to the provisions of subsection (c), unless he made a preliminary decision, pursuant to the provisions of section 28, about the prima facie existence of dumped imports or of imports at a subsidized price and specific subsidization, as the case may be, of material injury to the domestic industry and of a causal link, as stated in section 21 (b).

(e) Notwithstanding the provisions of subsection (a), the Commissioner shall be entitled not to accept an undertaking as stated in this section if, in his opinion, accepting the undertaking as stated is not practical due to the great number of actual or potential exporters, for reasons of policy or for other reasons; the Commissioner shall give the exporter or the subsidizing body, as the case may be, the reasons for his decision not to accept the undertaking, and he shall give them, insofar as possible, an opportunity to submit their arguments in writing.

Notification Of
Acceptance Of
Undertaking
(Amendment no. 3)
5765-2005

32.13 (a) Should the Commissioner decide pursuant to the provisions of section 32.12 to accept an undertaking, he shall provide notification to that effect to a notified party and to a competent authority in a country that is a party to the investigation procedure, within five days from the date of making the decision.

(b) Should an undertaking be accepted pursuant to the provisions of this section, and should a temporary guarantee be deposited pursuant to the provisions of section 29, the Commissioner shall inform the director to that effect and the guarantee shall be returned with the addition of linkage differentials and interest as these are defined in section 93 of the Value Added Tax Law, 5736- 1976 [numeral 4] 4.

Period Of The
Undertaking
(Amendment no. 3)
5765-2005

32.14 An undertaking pursuant to this section shall be for a period of five years from the date on which it is given, unless the Commissioner shall determine a shorter period or the period is shortened or extended pursuant to the provisions of Title Nine.

Continued Complaint
Proceedings
(Amendment no. 3)
5765-2005

32.15 Should an undertaking be accepted pursuant to the provisions of section 32.12, the Commissioner may, notwithstanding the provisions of that section, continue handling the complaint at his initiative or pursuant to a request by the subsidizing body, the exporter or the complainant; should the Commissioner continue handling the complaint and, pursuant to the conclusions of the advisory committee, that stated

in paragraphs (1) to (3) of section 21 (b) is not fulfilled, the undertaking shall expire, unless acceptance of the undertaking is what led to said conclusions; should the advisory committee reach conclusions whereby that stated in those paragraphs is fulfilled, the undertaking shall remain valid pursuant to the provisions of this chapter.

Meeting The
Conditions Of The
Undertaking
(Amendment no. 3)
5765-2005

32.16 (a) The Commissioner may, at any time, demand from the subsidizing body or from the exporter an undertaking pursuant to the provisions of section 32.12, any information pertaining to meeting the conditions of the undertaking, and to demand that it enable verification of said information; should the subsidizing body or the exporter not fulfill said demand, it shall be deemed as breaching the conditions of the undertaking.

(b) Should the Commissioner find that an undertaking that was given pursuant to section 32.12 was breached, he may, based on the information available to him, demand, notwithstanding the provisions of section 29 (d), the deposit of a temporary guarantee, and in this matter, the provisions of section 29 (b), (c), and (e) shall apply; should the deposit of a temporary guarantee be demanded as stated, the Minister shall also be entitled, notwithstanding the provisions of section 32.22 to levy an anti-dumping duty or a countervailing duty, as the case may be, pursuant to the provisions of section 32.18, on goods that were released from the supervision of the Customs Authority, commencing on the date on which the undertaking was breached or 90 days before the date on which the temporary guarantee was deposited, whichever is the later of the two.

Acceptance Of
Undertaking After
Submission Of The
Investigation Findings
To The Advisory
Committee
(Amendment no. 3)
5765-2005

32.17 Should an undertaking be accepted pursuant to the provisions of section 32.12 regarding a complaint for which the Commissioner submit the findings of his investigation to the advisory committee pursuant to the provisions of section 32.8, the advisory committee shall terminate the complaint unless the Commissioner ordered continuation of the complaint pursuant to the provisions of section 32.15.

(Amendment no. 3)
5765-2005
Levying An Anti-
Dumping Duty Or A
Countervailing Duty
(Amendment no. 3)
5765-2005

Title G: Anti-dumping duty and countervailing duty

32.18 (a) Should the advisory committee submit its recommendations and conclusions to the Minister pursuant to section 32.11, attesting to the existence of dumped imports or imports at a subsidized price and specific subsidization, material injury to the domestic industry and a causal link as stated in section 21 (b), the Minister shall submit the recommendations and conclusions of the committee to the Minister of Finance and shall decide, within 15 days from the date of receipt of the advisory committee's recommendations, whether or not to levy an anti-dumping duty or a countervailing duty, as the case may be, taking into account, inter alia, the trade relationship between Israel and foreign countries and reasons pertaining to the economy in general.

(b) Should the Minister decide, pursuant to the provisions of subsection (a) to levy an anti-dumping duty or a countervailing duty, he shall submit his decision for the approval of the Minister of Finance.

(c) Should the Minister of Finance approve the decision as stated in subsection (b), or should he not notify the Minister of refusal to approve the decision within 15 days from the date on which the decision was submitted to him, the Minister shall levy, by order, within five days, an anti-dumping duty or a countervailing duty.

(d) (1) Notification of imposition of an anti-dumping duty or a countervailing duty by order pursuant to this section, shall be given to the

competent authority in the country that was a party to the investigation and to the notified party, with the attached conclusions and recommendations of the advisory committee; notification of non-imposition of said duty or of its imposition by order not according to the recommendations of the advisory committee shall also be given to the advisory committee with attached explanations.

- (2) Notification as stated in paragraph (1) shall be given within five days from the date of granting the order or from the date of the decision on non-imposition of the duty, as the case may be.

Anti-Dumping Duty —
Applicability And Rate
(Amendment no. 3)
5765-2005

32.19 (a) An anti-dumping duty shall apply to a certain type of goods that were imported by dumping from the production country as set forth in the order as stated in section 32.18, which were produced by producers or exported by exporters which were noted in the order, and at the rates set forth in the order regarding each one of them; should there be a large number of producers or exporters so that noting all of their names is not practical, only the production country or the exporting country shall be noted.

(b) Dumping duty shall be at the rate of the dumping, and it may be in a fixed amount, in percentages or according to another calculation; however, should the Commissioner or the advisory committee, as the case may be, find that a duty that is lower than the dumping rate is sufficient to prevent material injury to the domestic industry, the anti-dumping duty shall be at the rate required to prevent said injury.

(c) Should the examination for the purpose of determining the rate of the dumping as stated in section 32.4 be limited, the rate of the anti-dumping duty levied on the import of the goods from exporters or from producers that were not included in the examination shall not exceed the weighted average of the rate of the dumping determined for the exporters or the producers that were included in the examination, provided that in determining the weighted average in this matter a minimal dumping rate as stated in section 32.7 and a dumping rate determined in the circumstances set forth in section 32.1 shall not be taken into account; however, the rate of the duty shall also be determined separately for a producer or an exporter for which a separate dumping rate was determined pursuant to the provisions of section 32.4 (c).

Countervailing Duty —
Applicability And Rate
(Amendment no. 3)
5765-2005

32.20 (a) A countervailing duty shall apply to a particular type of goods that shall be imported at a subsidized price from the producing country in which the subsidy was given, as set forth in the order as stated in section 32.18.

(b) The countervailing duty shall be at the rate of the subsidy which shall be calculated in terms of subsidy per unit of the goods that were imported at a subsidized price; however, should the Commissioner or the advisory committee, as the case may be, find that a duty lower than the subsidization rate as stated is sufficient to prevent the material injury to the domestic industry, the countervailing duty shall be at the rate required to prevent said injury.

(c) Should the examination be restricted for the purpose of determining the rate of the subsidization as stated in section 32.4, the provisions of section 32.19 (c) shall apply, *mutatis mutandis*.

The Effective Period Of
The Duty Order
(Amendment no. 3)
5765-2005

32.21 An order that levies a duty pursuant to section 32.18 shall be for a period of five years from the date of its imposition, unless a shorter period is set forth in the order or the period was shortened or extended pursuant to the provisions of Title

The Goods For Which
The Duty Shall Be Paid
(Amendment no. 3)
5765-2005

Nine.

32.22 (a) An order that levies a duty as stated in section 32.18 shall apply to the goods specified therein, which shall be released from the supervision of the Customs Authority beginning on the date of commencement of the order and during its validity.

(b) Notwithstanding the provisions of subsection (a), should a temporary guarantee as stated in section 29 be deposited on the date of commencement of the order, the order shall also apply to goods that were released from the supervision of the Customs Authority before the date of commencement of the order but after deposit of the guarantee, and the guarantee shall be forfeited in accordance with the order, provided that pursuant to the conclusions of the advisory committee as stated in section 32.11, material injury was caused to the domestic industry which does not prevent development of the enterprises for producing goods similar to the imported goods whose establishment had commenced, or that pursuant to its conclusions, there is a threat of material injury as stated that would have been caused had the guarantee not been deposited.

(c) Notwithstanding that stated in subsections (a) and (b), the Minister shall also be entitled to apply the duty to goods as set forth in the order, which were released from the supervision of the Customs Authority before the date of deposit of the temporary guarantee, but after the date of record, provided that the recommendation of the advisory committee pursuant to section 32.11 was as set forth below:

- (1) With regard to imports at a subsidized price — that the material injury to the domestic industry was caused by a large volume of imports of the imported goods during a relatively short period of time, and that in view of the timing and the volume of the imports at a subsidized price and other circumstances, such as the accumulation of inventory of the imported goods, imposition of the duty would not necessarily lead to prevention of the injury to the domestic industry;
- (2) With regard to dumped imports — that that stated in paragraph (1) was fulfilled, mutatis mutandis, and that the imported goods were imported to Israel in the past by dumping and material injury was caused to the domestic industry, or that the importer knew or should have known that the exporter habitually exported said goods by dumping and that the dumping would cause material to the domestic industry.

(d) In this section, the "date of record" — 90 days before the date of deposit of the temporary guarantee or the date of the Commissioner's decision to initiate an investigation pursuant to section 24, which ever is the later of the two.

Forfeiture Of
Temporary Guarantee
(Amendment no. 3)
5765-2005

32.23 (a) The temporary guarantee deposited in respect of goods which are subject to an order as stated in section 32.22, shall be forfeited in accordance with the provisions of the order, however, if the rate of the duty decreased to less than the amount of the deposited temporary guarantee, the guarantee shall be forfeited in the amount of the duty and the difference shall be returned with the addition of linkage differentials and interest as these are defined in section 93 of the Value Added Tax 5736 — 1976 (in this section — linkage differentials and interest), and if the rate of the duty increased to more than the amount of the deposited temporary guarantee, the guarantee shall be forfeited but no difference shall be collected.

(b) If an anti-dumping duty or a countervailing duty was not levied pursuant to the provisions of section 32.18, the Commissioner shall so notify the director and the temporary guarantee that was deposited pursuant to the provisions of section 29

shall be returned with the addition of linkage differentials and interest.

(Amendment no. 3)
5765-2005
Duration Of Procedure
For Complaint
Proceedings and
Extension of Deadlines
(Amendment no. 3)
5765-2005

Title H: Duration of the procedure for handling a complaint

32.24 (a) The procedure for handing a complaint pursuant to the provisions of this chapter shall conclude within one year from the date of the Commissioner's decision to initiate an investigation pursuant to the provisions of section 24;

(b) Notwithstanding that stated in subsection (a), the Commissioner or the chairman of the advisory committee, as the case may be, may, in exceptional cases and for reasons that shall be recorded, extend the deadlines set forth in sections 28 (b), 32.8 and 32.11, and to determine that that the procedures for handling the complaint shall conclude within 15 months from the date of the decision to open an investigation; the Commissioner or the chairman of the advisory committee, as the case may be, may again order an additional extension of the deadlines as stated, in exceptional cases and for special reasons that shall be recorded, provided that the procedures for handling the complaint shall conclude within 18 months from the date of the decision to initiate an investigation as stated.

(Amendment no. 3)
5765-2005
Application For Re-
Examination
(Amendment no. 3)
5765-2005

Title I: Re-examination and extension of validity

32.25 (a) An interested party may submit a reasoned application to the Commissioner in writing, requesting to re-examine one of the matters set forth below, and requesting a change in the order levying or cancelling the duty:

- (1) If continuation of the levying of the anti-dumping duty or the countervailing duty in the order is required to prevent dumped imports or imports at a subsidized price, as the case may be;
- (2) If the material injury to the domestic industry is likely to continue or to change if the duty is changed or cancelled;
- (3) If the duty that was levied is not sufficient to prevent injury to the domestic industry.

(b) No application as stated in subsection (a) shall be deliberated unless at least one year has a lapsed from the date on which the duty was levied, however the Commissioner shall be entitled to decide on deliberation of an application prior thereto if he learns that special circumstances exist which justify doing so.

(c) An order levying an anti-dumping duty or a countervailing duty pursuant to this section may also be re-examined at the initiative of the Commissioner.

Application To Extend
An Order
(Amendment no. 3)
5765-2005

32.26 (a) Anyone entitled to submit a complaint pursuant to the provisions of section 21 may submit a reasoned application in writing to the Commissioner to, to extend the validity of an order levying an anti-dumping duty or a countervailing duty, due to the fact that expiration of the order is likely to lead to the continuation or recurrence of dumped imports or imports at a subsidized price, as the case may be, and material injury to the domestic industry.

(b) An order can also be extended as stated in subsection (a) at the initiative of the Commissioner.

(c) An application to extend the validity of an order as stated in subsection (a) shall be submitted to the Commissioner at least 12 months before the date of expiration of the order, however, the Commissioner may, for special reasons, to

approve submission of an application as stated at a later date, provided that it shall be no later than six months before the date of expiration of the order.

(d) No application pursuant to this section shall be deliberated unless that stated in section 24 (a) (1) is fulfilled.

(e) Should an application be submitted to the Commissioner pursuant to this section, the order levying the duty shall remain in effect until the Minister makes a decision pursuant to the provisions of section 32.29 (c).

Application To
Determine An Anti-
Dumping Duty
Separately For New
Exporters Or Producers
(Amendment no. 3)
5765-2005

32.27 (a) Should an order levy an anti-dumping duty on imported goods, the exporter or producer of those goods in the exporting country that did not export said goods to Israel in the period under investigation as this is defined in section 25, may submit a reasoned application in writing to the Commissioner to determine a separate rate of dumping and rate of duty, provided that said exporter or producer proved, to the satisfaction of the Commissioner, that there is no special relationship, as stated in subparagraphs (1) to (3) of the definition of "special relationship" between itself and another exporter or producer of said goods in the exporting country, which are subject to the duty.

(b) No anti-dumping duty shall be collected regarding imported goods from the importer of a producer or of an exporter that submitted an application pursuant to subsection (a) as long as the Minister's decision on the application pursuant to the provisions of section 32.29 (c) was not given; however, the Commissioner shall be entitled to demand that said importer of the goods deposit a temporary guarantee, in accordance with the provisions of section 29, to secure payment of the duty retroactively from the date of the Commissioner's decision pursuant to the provisions of section 32.28 if, pursuant to the findings of his examinations under the provisions of said section, said goods were imported by dumping and the order levying the antidumping duty must be changed.

The Commissioner's
Handling Of The
Application
(Amendment no. 3)
5765-2005

32.28 (a) Should an application be submitted pursuant to the provisions of section 32.25, 32.26 or 32.27 (in this section – application), the Commissioner shall decide within 21 days from the date of submission of the application if there is a prima facie basis for the application; the Commissioner may, for special reasons that shall be recorded, extend the period stated in this subsection by an additional period that shall not exceed 30 days.

(b) Should the Commissioner decide pursuant to the provisions of subsection (a) that there is no prima facie basis for the application, he shall notify the applicant to that effect in writing, with the addition of his reasons.

(c) Should the Commissioner decide pursuant to the provisions of subsection (a) that there is a prima facie basis to the application, the following provisions shall apply:

(1) The Commissioner shall give notice to that effect in writing, within five days from the date of his decision, to the applicant, to the notified party, to any interested party noted in the application and to the competent authority in the country that was a party to the investigation procedure, and a copy of the application and the Commissioner's decision shall be attached to the notification, and he may publish the notification as stated in section 26 (d), including an invitation to an interested party that was not noted in the application to contact the Commissioner within seven days from the date of publication with a request to receive, in the manner and at the time determined by the Minister, a copy of the application and the Commissioner's decision.

- (2) Anyone who received, pursuant to the provisions of paragraph (1), a copy of the application and the Commissioner's decision, shall be entitled to submit his response to the application in writing, within 30 days of the date on which the copy was issued to him as stated, and the Commissioner may, for special reasons that shall be recorded, extend said period by an additional period that shall not exceed 30 days;
- (3) The Commissioner shall examine the application and shall submit the findings of his examination with the addition of the application and any document that was submitted to him, for deliberation in the advisory committee, within 170 days from the date of his decision as stated in this subsection, and he may, for special reasons that shall be recorded, extend said period by an additional period that shall not exceed 60 days; the Commissioner shall provide the findings of his examination to anyone that submitted his response, in writing, pursuant to the provisions of paragraph (2).

Deliberations Of The
Advisory Committee
And The Minister's
Decision On The
Application
(Amendment no. 3)
5765-2005

32.29 (a) Should the Commissioner submit the findings of his examination to the advisory committee pursuant to the provisions of section 32.28, the advisory committee shall deliberate them.

(b) The advisory committee shall submit to the Minister, no later than 45 days from the date on which the Commissioner submitted the findings of his examination to the committee, its conclusions and recommendations regarding changing, cancelling or extending the order levying the duty, as the case may be.

(c) (1) The Minister shall decide, within 15 days from the date on which he was given the conclusions and recommendations of the advisory committee, taking into account the considerations and conditions stated in section 32.18, whether to leave the order as is, to change it, to cancel it, or to extend its validity.

(2) Notification of the Minister's decision pursuant to paragraph (1) shall be given, within five days from the date on which it was made, to the competent authority in the country that was a party to the investigation procedure, to the applicant and to the informed party, with the attached conclusions and recommendations of the advisory committee; should the Minister decide not in accord with the application or not in accord with the recommendations of the advisory committee, he shall also notify the advisory committee and the applicant to that effect, with his attached reasons.

Applicability Of
Provisions
(Amendment no. 3)
5765-2005

32.30 The powers vested in the Commissioner pursuant to the provisions of this chapter, including in the matter of imposing a temporary guarantee, and the powers vested in the advisory committee pursuant to this chapter, shall also be vested therein regarding applications that were submitted pursuant to this Title, and shall apply with regard to the deliberation of applications as stated in the provisions of this chapter regarding evidence, practices and procedures, mutatis mutandis.

Re-Examining And
Extending The Validity
Of An Undertaking
(Amendment no. 3)
5765-2005

32.31 The provisions of this Title shall also apply, mutatis mutandis, to a request to re-examine an undertaking that was given pursuant to the provisions of section 32.12 or a request to extend its validity.

(Amendment no. 3)
5765-2005

Title J: Refund of anti-dumping duty or countervailing duty

Refund Of Anti-

32.32 (a) An importer of imported goods that paid an anti-dumping duty or a

Dumping Duty Or
Countervailing Duty
(Amendment no. 3)
5765-2005

countervailing duty thereof may submit a reasoned application in writing to the Commissioner to refund the amount of the duty that it paid in a certain period, due to the fact that the rate of the dumping or the rate of the subsidization, as the case may be, during that period, was lower than the rate of the dumping or than the rate of the subsidization according to which the rate of the duty was determined.

(b) (1) An application as stated in subsection (a) shall be submitted within six months from the date of payment of the amount of the duty for which the refund is requested, and it shall contain detailed information supported by substantiated evidence regarding the amount of the requested refund, including the entries for its consumption in Israel that were permitted pursuant to the Customs Ordinance [5]5, the sales accounts and any other document that was submitted to or issued by the Customs Authority, which relates to the calculation and payment of said amount, and regarding the normal price and the export price of the imported goods on which the anti-dumping duty was paid, or the rate of the subsidization regarding the imported goods on which the countervailing duty was paid, as the case may be.

(2) An importer which, at the time of submitting an application as stated in subsection (a), does not have in its possession, substantiated evidence as stated in paragraph (1), shall be entitled to attach an affidavit to the application from the producer or the exporter to the effect that the rate of the dumping or the rate of the subsidization, pursuant to which the rate of the duty was determined, decreased in the period for which the refund is requested and that said substantiated evidence shall be attached thereafter; should the producer or the exporter not provide evidence as stated within a reasonable period of time, the application shall be rejected.

(c) The Commissioner shall decide on the application within 12 months from the date of its submission, and he shall be entitled to extend said period by an additional period that shall not exceed six months; the Commissioner shall notify the advisory committee of his decision.

(d) Should the Commissioner decide to grant the application, he shall so notify the director and the applicant shall be reimbursed within 90 days from the date of making the decision.

(Amendment no. 3)
5765-2005
Publication In The
Official Gazette
(Amendment no. 3)
5765-2005

Title K: Miscellaneous provisions

32.33 (a) Notification shall be published in the Official Gazette for each one of the following:

- (1) The Commissioner's decision to initiate an investigation pursuant to the provisions of section 26;
- (2) A preliminary decision by the Commissioner pursuant to the provisions of section 28;
- (3) The Commissioner's decision to accept an undertaking pursuant to the provisions of section 32.12;
- (4) The Minister's decision to levy by order an anti-dumping duty or a countervailing duty pursuant to the provisions of section 32.18, or a decision not to levy a duty as stated pursuant to the provisions of the same section;

(5) Expiration of the validity of an undertaking or an order levying an anti-dumping duty or a countervailing duty;

(6) The Commissioner's decision, pursuant to the provisions of section 32.28, to examine an application submitted to him pursuant to the provisions of sections 32.25, 32.26 or 32.27, and the Minister's decision on said application pursuant to the provisions of section 32.29.

(b) The notification of a decision as stated in subsection (a), shall note the place in which a copy of the decision, which is open to the public, has been deposited.

Reliance On Written Material
(Amendment no. 3)
5765-2005

32.34 Any decision by the Commissioner or by the advisory committee shall be based solely on information and arguments that were before them in writing and which were available to the notified parties, pursuant to the provisions of this chapter, subject to the provisions of section 32.2.

Assistance For An Interested Party
(Amendment no. 3)
5765-2005

32.35 At the time of exercising their authority pursuant to the provisions of this chapter, the Commissioner and the advisory committee shall extend reasonable assistance to an interested party as far as possible, for the purpose of fulfilling the requirements applying thereto pursuant to the provisions of this chapter.

Non-Delay Of Customs Procedures
(Amendment no. 3)
5765-2005

32.36 Procedures pursuant to the provisions of this chapter shall not delay the release of goods from the Customs supervision authority pursuant to the Customs Ordinance; the provisions of this section shall not derogate from the provisions of section 29 (e).

Delivering Notifications
(Amendment no. 3)
5765-2005

32.37 Notifications sent pursuant to the provisions of this chapter by registered mail, shall be presumed to have reached their destination if sent to an address in Israel – within three days from the date of submission for dispatch, and if sent to an address outside of Israel – within 10 days from said date.

(Amendment no. 3)
5765-2005

**Chapter D: Levy in Support of Research,
Marketing and Vocational Training**

– Repealed–

(Amendment no. 3)
5765-2005

Sections 33-41 (a) (repealed)

Chapter E: General Provisions

Drawback

42. (a) The Minister may prescribe that, when the goods are made in Israel and exported, the levies paid under Chapter Two and Three on some or all of the goods used for their production be refunded, and he may make conditions under which that drawback will be made.

(b) The Minister may prescribe that the drawback be a proportion of the value of the exported goods, or a certain amount according to the quantity or weight of the goods used in the production of exported goods, or according to some other calculation.

(c) No drawback shall be made of any levy imposed on the import of goods.

Report

43. The director may demand from any person in possession of goods of a

category on which a levy has been imposed, that he submit imported, exported or held by him, their value, purchase price, sale price, where they are kept, the wages paid, the service charges paid, the address of the business or warehouses in his possession and every other particular required in this context, all as specified in the demand.

Fees
(Amendment no. 3)
5765-2005
(Amendment no. 4)
5768-2008

44. The Minister may prescribe, by order with the approval of the Knesset Finance Committee, the rates of fees to be paid by anyone submitting an application pursuant to the provisions of Titles B or F of Chapter B2.

Date For Payment of Levy
(Amendment no. 4)
5768-2008

45. The safeguard levy, protection levy, anti-dumping duty and countervailing duty (hereinafter in payment of this chapter: levy) shall be paid at the times specified hereinafter, unless otherwise levy prescribed in the order, under which the levy has been imposed:

(Amendment no. 3)
5765-2005

- (1) for a levy on the import of goods, including anti-dumping duty and countervailing duty — until the time of payment of customs, and if the goods are exempt from customs — until the time when the bill of goods is released for consumption in Israel; with respect to anti-dumping duty imposed on goods cleared through customs, as said in section 32.22 (b) or (c) — within 30 days after the levy was imposed;
- (2) for a levy on the export of goods — up to the time of the release of the bill of goods for export;
- (3) for a levy on the possession of goods — within 30 days of the day on which the goods came into the possessor's possession, or of the day on which the levy was imposed, whichever is later;
- (4) for a levy on the provision of services — within 30 days after the service has been provided.

Deferral Of

46. (a) Notwithstanding the provisions of section 45, the director may defer dates payment date for the payment of a levy and he may make such deferment conditional upon the provision of levy of surety which he deems satisfactory.

(b) If the director deferred the date for the payment of the levy, then it shall be supplemented by — for the period of deferment — linkage differentials at the rate of increase of the consumer price index published by the Central Bureau of Statistics, from the index last published before the date for the payment of the levy until the index last published before the actual payment.

Determination Of Levy Upon Non- Submission Of Return
(Amendment no. 3)
5765-2005

47. (a) Should the possessor of goods fail to submit a report as said in section 43, the director may prescribe the chargeable levy, taking into account the extent of his business or activity, and where data is not available — by estimation.

(b) Determination of a levy, as stated in subsection (a), shall be cancelled where a report is submitted within 12 months of the day on which the levy was set.

Assessment

48. If a person chargeable for a levy has submitted a report and the director is of the opinion that the return is incomplete, or inaccurate, or is not based upon documentation or proper account books, then the director may assess the chargeable duty to the best of his judgement.

Re-Examination
(Amendment no. 3)
5765-2005
(Amendment no. 3)
5765-2005

49. (a) Deleted
- (b) A person who disagrees with the Commissioner's decision regarding

certain goods being of the type in which they were classified or of a type upon which a duty was levied, with the director's assessment pursuant to section 48 or with the director's decision regarding the value of the goods that was determined for the purpose of the duty, may contact the director in writing within 15 days from the date of the levying of the duty or from the date on which the decision was made, as the case may be, and request to re-examine the decision; and the director shall be entitled, for special reasons that shall be recorded, to extend the period for submitting a request for re-examination pursuant to this subsection;

(Amendment no. 3)
5765-2005

(c) Should the director fail to render a decision on the request within two months of the date on which it was made, then the request shall be deemed to have been accepted.

(Amendment no. 3)
5765-2005
Powers Of
Director

50. Deleted

51. For purposes of implementation of this law the director shall have the powers prescribed by sections 108 to 111, 114 and 115 of the VAT Law.

Violations

52. (a) Any person who committed one of the following shall be liable to one year's imprisonment:

(1) submitted a return, information, account book, document or other certificate (hereinafter in this section: document) which is false in an important particular;

(Amendment no. 3)
5765-2005

(2) failed to submit a return which he was required to submit under the provisions of this law or by regulations thereunder, other than a a reply to the questionnaire pursuant to Section 32 or pursuant to said section as applied in Section 3I, or his submission was late;

(3) he interfered with the performance of the duties of any person who acted lawfully under this law;

(4) he refused to submit or failed to submit a document or sample, which he was obligated to submit, having been ordered to do so;

5) he unlawfully disclosed confidential information, which came into his possession for purposes of this law;

(6) he contravened one of the provisions of this law or of a regulation thereunder.

(b) If a person committed one the offenses enumerated in subsection (a) with the intention of evading payment of a levy, or if he committed some other act with the said intention, or if he willingly concealed, destroyed, or changed a document which he was required to keep or to submit under the provisions of this law, he shall be liable to three years' imprisonment.

Offenses By
Corporations

53. If an offense against this law was committed by a body corporate, then any person bodies who — at the time the offense was committed — was an active director, secretary, partner -corporate other than a limited partner — comptroller or a senior administrative employee responsible for that sphere shall also be guilty of such offense unless he proves that the offense was committed without his knowledge and that he took all appropriate steps to ensure compliance with the provisions of this law.

Responsibility for
Actions of Employee

54. If an offense against his law is committed by an employee or agent in the course for action of of the business of a person liable to a levy, then the liable person may also be accused employees of that offense, unless he proves that the

offense was committed without his knowledge and that he took all appropriate steps to ensure compliance with the provisions of this law.

Monetary Penalty

55. (a) If a person committed an offense against the provisions of this law or is suspected thereof, the director may — with that person's consent — accept from him a monetary penalty in an amount no greater than double the largest fine that can be imposed for that offense, or three times the value of the goods, in connection with which the offense was committed, whichever is the larger amount, and when he has done so, every legal proceeding in connection with that offense shall cease; however, if an indictment for that offense has been filed, then the monetary penalty may be accepted only with the approval of the Attorney General or of a person so authorized by him.

(b) The director may make the monetary penalty conditional upon an undertaking to refrain from offenses against this law during a period set by him, but not longer than three years; the undertaking shall be by bond no greater than the largest fine that can be imposed for the said offense, and it may be guaranteed by a third party or be without guarantee, as the director shall decide.

(c) If a person is found guilty of an offense, from which he undertook to refrain under subsection (b), then the bond shall be collected as a levy under this law.

Effect Of Levy
(Amendment no. 3)
5765-2005

56. The provisions of section 2 of the Customs and Excise Duties (Variation of Rates) Law 5709-1949 shall apply to a levy pursuant to this law, as if the levy were tax within the meaning of said section.

Collection

57. A levy under this law shall be collected under the Taxes (Collection) Ordinance, as if it were a tax within the meaning of that ordinance.

Applicability Of
Customs Law
(Amendment no. 3)
5765-20053

58. The provisions of sections 31 to 36, 39 A, 124 to 127, 136, 145, 148 150 except for its paragraph (2), 152, 156, 158, 159, 160B and 161 of the Customs Ordinance shall also apply, mutatis mutandis, to a levy under this law.

Overpayment And
Underpayment
(Amendment no. 3)
5765-2005

59. The provisions of the Indirect Taxes (Overpayment and Underpayment) Law 5728-1968 shall apply to levies under this law, however, sections 3 and 6 of said law shall not apply to an anti-dumping duty and a countervailing duty.

Arrears Fines

60. The provisions of the Taxes (Arrear Fine) Law 5741-1980 shall apply to levies under this law, as if they had been imposed under a tax law, within the meaning of the said law; the director is authorized to waive or reduce arrear fines for special reasons which shall be recorded.

Obligation Of
Purchaser

61. (a) When a levy is imposed under this law on goods or services after their sale has been agreed upon, then the person liable to the levy may demand that the purchaser or the recipient of the service pay him the amount he paid as levy, unless the agreement between them prescribes otherwise.

(b) When the rate of a levy is increased, then the provisions of this section shall apply to the additional amount of levy.

(c) When a levy is reduced or cancelled, the seller or whoever provides a service shall reduce the price, unless the agreement between them prescribes otherwise.

The State

62. The provisions of Chapter Three shall apply to goods imported by the government, except for customs exempt combat equipment.

Implementation And
Regulation

63. (a) The Minister is charged with the implementation of this law and he may enact regulations for its implementation.

(b) The Minister of Justice may enact regulations on the manner of submitting appeals under this law, on procedure and on fees, costs and loss of working time compensation for witnesses in said appeals.

(Amendment no. 3)
5765-20053
(Amendment no. 4)
5768-2008

(c) Regulations for implementing the provisions of Chapter B2 and C, in any matter for which there are provisions of an international treaty to which Israel is a party, shall be promulgated in accordance with the provisions of said treaty. Should in such treaties special provisions be set regarding safeguard measures applying to imports of goods from a particular country, the Minister may determine in regulations for the execution of the provisions of Chapter B2, that the provisions of same chapter shall apply to the import of goods from that same country, with the changes deriving from the provisions of that treaty.

Repeal

64. The following are repealed:

- (1) Emergency Regulations (Mandatory Payments) 5718-1958;
- (2) Prevention of Dumping Law 5737-1977.

Commencement,
Applicability
And Transitional
Provisions

65. (a) This law shall come into effect on 1 January 1991.

(b) The provisions of this law on anti-dumping duty and countervailing duty and shall apply to complaints submitted on the day of its publication and thereafter; if, a person submitted a complaint prior to the commencement of this law and if provisions notice of its submission was published under the law in effect before this law was published, and if it had not yet been brought before the committee, then he may inform the Commissioner that he desires the complaint to be dealt with under the provisions of this law; a said notification shall be delivered to the Commissioner in writing within one month after the publication of this law.

(c) Notwithstanding the provision of any enactment —

- (1) the provisions of section 2(d) of this law shall apply to an order made under Emergency Regulations (Mandatory Payments) 5718-1958, if no earlier date for its lapse is prescribed in that order, provided that its effect does not lapse later than 31 December 1992;
- (2) if an order was made under the Prevention of Dumping Law 5737-1977, a re-examination request in its respect may be made under this law.

Yitzhak Shamir
Prime Minister

Moshe Nissim
Ministers of Industry and Trade

Chaim Herzog
President of Israel

Dov Shilansky
Chairman of the Knesset