

# WORLD TRADE ORGANIZATION

G/ADP/N/1/EGY/2/Rev.1\*  
G/SCM/N/1/EGY/2/Rev.1\*  
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Committee on Anti-Dumping Practices  
Committee on Subsidies and Countervailing Measures  
Committee on Safeguards

Original: English

## NOTIFICATION OF LAWS AND REGULATIONS UNDER ARTICLES 18.5, 32.6 AND 12.6 OF THE AGREEMENTS

EGYPT

Revision

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\* This document incorporates the unofficial translation of Official Journal Issue No. 24, Supplement A, concerning Law No. 161, circulated in document G/ADP/N/1/EGY/2-G/SCM/N/1/EGY/2 of 11 November 1998 together with the Implementing Regulations of the said Law.

**UNOFFICIAL TRANSLATION**

**Official Journal Issue No. 24 Supplement A – dated 11 June 1998**

**LAW NO. 161 OF THE YEAR 1998 CONCERNING THE PROTECTION  
OF NATIONAL ECONOMY FROM THE EFFECTS OF INJURIOUS  
PRACTICES IN INTERNATIONAL TRADE**

**ARTICLE 1**

The Ministry of Trade and Supply shall be concerned with applying methods, procedures, measures, and making the necessary decisions for the protection of the national economy from the injury resulting from subsidies or dumping practices or the unjustifiable increase in imports, in accordance with the relevant Agreements embodied in the Final Act of the Uruguay Round of Multilateral Trade Negotiation to which the Arab Republic of Egypt adhered to by virtue of the Decree of the President of the Republic No. 72 of the year 1995.

The Ministry shall be the Authority responsible for implementing the provisions of this Law, and in so doing it shall undertake the following:

- (A) Provide the studies, information and data necessary for establishing evidence of subsidies or dumping, or unjustifiable increase in imports;
- (B) Extend technical assistance to local producers facing a complaint from a Member of the World Trade Organization, in the cases referred to in the previous paragraph.

**ARTICLE 2**

The Minister of Trade and Supply shall have the power to request the information and data which are necessary for establishing cases of subsidies or dumping, or unjustifiable increase in imports, from any entity whatsoever. The entity from which such information and data are required shall submit them within at most thirty days from the date of the request.

**ARTICLE 3**

The Minister of Trade and Supply shall make the necessary decisions concerning the countervailing measures prescribed in the Agreements referred to in Article (1) of this Law, to confront subsidies or dumping cases, or the unjustifiable increase in imports, in accordance with the disciplines and within the limits prescribed in these Agreements.

**ARTICLE 4**

The Administrative Court shall have the exclusive jurisdiction to consider and examine the disputes related to the implementation of the provisions of the previous Articles. Appeals against the rulings pronounced by the Administrative Court shall be filed before the High Administrative Court.

The settlement of these disputes and claims shall take place promptly and be effected in accordance with the provisions comprised in the Agreements referred to in Article (1) of this Law.

## **ARTICLE 5**

A list of experts in the areas of specialization necessary for the implementation of the Agreements referred to in Article (1) of this Law shall be compiled by the Ministry of Justice. Inclusion in this list shall be done according to the terms and conditions to be issued by virtue of a decision to be issued by the Minister of Justice in agreement with the Minister of Trade and Supply.

The Court shall determine expert fees according to the provisions of the executive regulations. It shall also determine the party that is bound to incur these fees.

## **ARTICLE 6**

All persons or entities concerned with investigating the complaints related to subsidies or dumping cases, or the unjustifiable increase in imports and also with implementing the relevant procedures, measures and decisions, as well as examining the complaints shall maintain the confidentiality of the information and data which are given and provided by the concerned parties according to the provisions prescribed in this Law and in its executive regulations, and those comprised in the Agreements referred to in Article (1) of this Law.

It shall be prohibited to disclose the information and data referred to above, except by virtue of an explicit written permission from the party that provided it.

## **ARTICLE 7**

Without prejudice to more stringent penalties prescribed by law, violating the prohibition prescribed in the previous article shall be liable to penalizing with a fine of not less than ten thousand pounds and not exceeding fifty thousand pounds.

## **ARTICLE 8**

The Minister of Justice in agreement with the Minister of Trade and Supply shall issue a decision defining those who are vested with the authority of investigating the crimes committed in violation of the provisions of this Law and its executive regulations.

## **ARTICLE 9**

Article (8) of the Customs Law as promulgated by Law No. (66) of the year 1963 shall be abrogated. Any provision that contradicts the provisions of this Law shall also be abrogated.

## **ARTICLE 10**

The Minister of Trade and Supply shall issue the executive regulations of this Law and the decisions necessary for its implementation within a period of three months from the date of its entry into force.

## **ARTICLE 11**

This Law shall be published in the Official Journal and shall enter into force as of the day following the date of its publication.

THIS LAW SHALL BE STAMPED WITH THE SEAL OF THE STATE AND ENFORCED AS ONE OF ITS LAWS.

ISSUED AT THE PRESIDENCY OF THE REPUBLIC ON 16 SAFAR HEJIRA YEAR 1419 (11 JUNE 1998).

**IMPLEMENTING REGULATIONS OF THE EGYPTIAN LAW NO. 161  
CONCERNING THE PROTECTION OF THE NATIONAL  
ECONOMY FROM INJURIOUS EFFECTS OF UNFAIR  
PRACTICES IN INTERNATIONAL LAW**

**TABLE OF CONTENTS**

	<u>Page</u>
<b>PART I – DEFINITIONS AND GENERAL PROVISIONS.....</b>	<b>6</b>
Section 1 – Definitions.....	6
Section 2 – General Provisions .....	7
<b>PART II – APPLICATION AND PROCEDURES OF INVESTIGATION .....</b>	<b>9</b>
Section 1 – The Application .....	9
Section 2 – Investigation Procedures .....	11
<b>PART III – ANTI-DUMPING .....</b>	<b>13</b>
Section 1 – Dumping Calculations .....	13
Section 2 – Determination of Injury .....	14
Section 3 – Provisional Measures .....	16
Section 4 – Definitive Anti-Dumping Duties .....	16
Section 5 – Undertakings .....	17
Section 6 – Retroactivity.....	18
Section 7 – Review of Definitive Anti-Dumping Duties .....	18
<b>PART IV – SUBSIDY AND COUNTERVAILING MEASURES.....</b>	<b>19</b>
Section 1 – Definition of Subsidy .....	19
Section 2 – Consultations.....	19
Section 3 – Subsidy Calculations.....	20
Section 4 – Determination of Injury .....	21
Section 5 – Provisional Measures .....	22
Section 6 – Definitive Countervailing Duties .....	22
Section 7 – Undertakings .....	23
Section 8 – Retroactivity.....	24
Section 9 – Review of Definitive Countervailing Duties.....	24
<b>PART V – SAFEGUARD MEASURES AGAINST THE UNJUSTIFIABLE INCREASE IN IMPORTS .....</b>	<b>25</b>
Section 1 – Application of Safeguard Measures .....	25
Section 2 – Determination of Serious Injury or Threat Thereof .....	25
Section 3 – Provisional Safeguard Measures.....	26
Section 4 – Definitive Measures .....	26
<b>PART IV – FINAL PROVISIONS .....</b>	<b>27</b>

**REGULATION OF LAW NO. 161/1998 CONCERNING THE  
PROTECTION OF NATIONAL ECONOMY FROM INJURIOUS  
EFFECTS OF UNFAIR PRACTICES IN INTERNATIONAL TRADE**

**PART I: "DEFINITIONS AND GENERAL PROVISIONS"**

**Section 1: "Definitions"**

**Article 1**

In applying the provisions of this regulation, the following terms shall be defined as follows:

- **"Final Act"** means the Act including the Results of the Multilateral Trade Negotiations of the Uruguay Round.
- **"WTO Agreement"** means the Marrakesh Agreement Establishing the World Trade Organization concluded in Marrakesh, Morocco, on 15 April 1994.
- **"Anti-Dumping Agreement"** means the Agreement included in Annex (1A) to the Final Act of the Results of the Uruguay Round concerning the Implementation of Article VI of GATT 1994 and regulating the imposition of anti-dumping duties against dumped imports causing material injury to the domestic industry or threat thereof.
- **"Agreement on Subsidies and Countervailing Measures"** means the Agreement included in Annex (1A) to the Final Act of the Results of the Uruguay Round concerning the Implementation of Article XVI of GATT 1994 and regulating the imposition of countervailing duties against countries which provide subsidies for the goods exported from them and thereby causing injury to the domestic industry or threat thereof.
- **"Agreement on Safeguards"** means the Agreement included in Annex (1A) to the Final Act of the Results of the Uruguay Round concerning the Implementation of Article 19 of GATT 1994, regulating the imposition of safeguard measures against increased imports causing serious injury to the domestic industry or threat thereof.
- **"Injurious Practices"** means the increase of imports of a product as a result of dumping or subsidy which causes material injury to the domestic industry or threat thereof, or the unjustifiable increase of imports which causes serious injury to the domestic industry or threat thereof.
- **"Concerned parties"** shall include the domestic industry (the applicant), those acting on behalf of the domestic industry, importers, exporters and governments of exporting countries.
- **"Other interested parties"** means industrial users of the product under investigation, consumer associations, government bodies responsible for consumer protection, government bodies responsible for making competition policies or any other foreign or domestic parties found to have an interest.
- **"Domestic Industry"** means the Egyptian producers of the like product whose collective output represents a major proportion of the domestic production of that product. This definition is applicable to both industrial and agricultural production.

- **"Independent buyer"** means a buyer who is in no way related to the importer; there is no commercial or production partnership between the buyer and the importer, there is no common relationship in another business, they are not directly or indirectly controlled by a third party or members of the same family.
- **"Government of an exporting country"** means:
  - (a) The government of a foreign country;
  - (b) Any local or regional government or authority of a foreign country;
  - (c) A body that exercises authority for an association of foreign countries;
  - (d) A person, agency or institution acting for or on behalf of a government or body referred to in (a) to (c) of this definition.
- **"Members having substantial interest in supplying the product concerned"** means those Member states who export a significant proportion of the total imports of Egypt's imports of the product under investigation.
- **"The Investigating Authority"** means The International Trade Policies Department (Anti-Dumping, Subsidy and Safeguard Department), Foreign Trade Sector.

## **Section 2: General Provisions**

### **Article 2**

The Foreign Trade Sector, Ministry of Trade and Supply, shall be the competent authority for implementing the provisions of Law No. 161/1998 referred to.

### **Article 3**

An Advisory Committee shall be formed upon a decree by the Minister of Trade and Supply to consider the results concluded by the Investigating Authority concerning the injurious practices in international trade, so that the Committee can make recommendations to the Minister of Trade and Supply.

This decree sets out the competencies, rules and work system of that Committee.

### **Article 4**

Both the Head of the Foreign Trade Sector and the Head of the International Trade Policies Department of the Ministry of Trade and Supply shall be authorized to ask for the data required to prove the cases of subsidy, dumping or unjustifiable increase of imports.

### **Article 5**

In cases where the Administrative Court refers cases to a competent expert, a time-limit shall be set to complete the task and expert fees shall not be less than three hundred pounds per day.

## Article 6

Notifications to interested parties, letters to complete documents or to ask for comments shall be sent by a registered mail, courier service, which confirms delivery to the interested party personally or to his legal deputy.

The above-mentioned procedures shall be taken in all correspondence with the parties concerned in foreign countries through their diplomatic missions or authorized consuls in the Arab Republic of Egypt.

## Article 7

The Investigating Authority shall prepare a detailed report including information and explanations concerning all notifications. This report shall be available to all parties concerned.

- **"Concerned parties"** shall include the domestic industry (the applicant), those acting on behalf of the domestic industry, importers, exporters and governments of exporting countries.
- **"Other interested parties"** means industrial users of the product under investigation, consumer associations, government bodies responsible for consumer protection, government bodies responsible for making competition policies or any other foreign or domestic parties found to have an interest.
- **"Domestic Industry"** means the Egyptian producers of the like product whose collective output represents a major proportion of the domestic production of that product. This definition is applicable to both industrial and agricultural production.
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**"Government of an exporting country"** means:

- (a) The government of a foreign country;
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  - (d) A person, agency or institution acting for or on behalf of a government or body referred to in (a) to (c) of this definition.
- **"Members having substantial interest in supplying the product concerned"** means those Member states who export a significant proportion of the total imports of Egypt's imports of the product under investigation.
  - **"The Investigating Authority"** means The International Trade Policies Department (Anti-Dumping, Subsidy and Safeguard Department), Foreign Trade Sector.



### **Article 8**

The Investigating Authority shall require interested parties providing confidential information to furnish non-confidential summaries thereof. These summaries shall be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. Those parties may indicate that such information is not susceptible of summary. In this case a statement of the reasons why summarization is not possible must be provided.

The Investigating Authority may disregard data and information provided if confidentiality is not justified or the request for confidentiality is not warranted.

### **Article 9**

All persons and bodies shall be required to protect the confidentiality of information and data in cases where it is necessary for the purpose of investigation or appeal, to have access to such information.

### **Article 10**

Rejection of an application, initiation or termination of investigation, provisional or definitive measures or acceptance of a price undertaking or any other measures shall be upon a decision by the Minister of Trade and Supply and upon a recommendation by the Advisory Committee mentioned in Article 3 of this regulation.

### **Article 11**

The Investigating Authority shall be required to complete the investigation within 12 months from the date of initiation. The Minister of Trade and Supply may extend this period, upon recommendation by the advisory committee referred to, for another period of no more than six months.

### **Article 12**

Procedures, measures and duties applied in accordance with this regulation shall be applicable to imported goods for which a custom statement has been made for final clearance.

## **PART II: "APPLICATION AND PROCEDURES OF INVESTIGATION"**

### **Section 1: "The Application"**

### **Article 13**

A written application of the effects caused by subsidy, dumping or an unjustifiable increase of imports shall be submitted to the Investigating Authority in the form provided for this. The applicant shall attach a non-confidential summary to the application, in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence.

#### **Article 14**

The application shall be accepted only if it is lodged by or on behalf of the domestic industry, chamber of the industries concerned, federation of industries, producers associations or the ministries supervising any of the production sectors.

The application shall include evidence of the existence of dumping, subsidy or an unjustifiable increase of imports, the injury caused by each and the causal link between each and the injury caused or threatened to the applicant.

#### **Article 15**

In applications where the domestic industry alleges that dumped or subsidized imports have materially retarded the establishment of a new industry, the applicant should provide:

1. Whether the domestic industry of the like product has already been established and the time required to establish this industry if it hasn't been established yet.
2. Possibilities of continuing this industry.
3. Feasibility studies.
4. Negotiated loans.
5. Contracts concluded to purchase new machinery to implement new investment or to expand the existing factories.

#### **Article 16**

The Investigating Authority should inform the applicant, within seven working days from the date of receiving the application, whether the application has been accepted in principle. The Investigating Authority may ask the applicant to provide information required to consider the acceptance of the application. The application shall be registered promptly after acceptance.

#### **Article 17**

The Investigating Authority shall examine the accuracy and adequacy of the evidence provided within thirty days from the date of registering the application. The Investigating Authority shall submit a preliminary report to the Advisory Committee showing the results of considering whether to reject the application or to initiate an investigation. This Committee shall present its recommendations to the Minister of Trade and Supply within ten days from the date of receiving this report.

#### **Article 18**

The Investigating Authority shall notify the applicant of the reasons why the application was rejected within no more than seven days of the Ministerial determination.

## **Section 2: "Investigation Procedures"**

### **Article 19**

An investigation shall not be initiated unless the application is supported by those domestic producers whose collective output constitutes more than 50 per cent of the total production of the like product produced by that portion of the domestic industry expressing either support for or opposition to the application. However, no investigation shall be initiated when domestic producers expressly supporting the application account for less than 25 per cent of total production of the like product produced by the domestic industry.

### **Article 20**

The Investigating Authority may, after presenting the report to the Advisory Committee and after approval of the Minister, initiate an investigation without having received a written application by or on behalf of the domestic industry for the initiation of such investigation only if they have sufficient evidence of dumping, subsidy or unjustifiable increase of imports, injury and a causal link to justify the initiation of an investigation.

### **Article 21**

The Investigating Authority shall notify the governments of the countries concerned with the applications already accepted before proceeding to initiate an investigation, except in respect of safeguard applications.

### **Article 22**

The Investigating Authority shall publish the notice of the initiation of an investigation in the Official Gazette. The notice shall include:

1. Names of the countries of origin or export of the product under investigation.
2. A description of the product in question.
3. A description of the allegations and practices under investigation.
4. A summary of the basis for alleged injury.
5. Time limits for other parties concerned to reply.
6. The address the interested parties should send their replies to.

### **Article 23**

The Investigating Authority shall send all known interested parties and the representatives of the exporting countries a copy of the non-confidential version of the application, the notice of initiation and questionnaires to get the data necessary for the investigation. The parties concerned should send their responses within 37 days from the date of receiving the questionnaires. This period may be extended upon good cause accepted by the Investigating Authority.

### **Article 24**

In cases where the number of the parties concerned or the types of products involved is so large as to make such investigation impracticable, the Investigating Authority may limit their investigation to a representative sample of the parties or types of products involved.

#### **Article 25**

The Investigating Authority shall provide fair opportunities for all parties concerned to defend their interests during the period of investigation and may, upon request, hold hearings for the interested parties to present their views and arguments. All interested parties can present verbal information during the hearings, however, this information shall not be taken into consideration unless it is provided in writing later on.

#### **Article 26**

The Investigating Authority may conduct on-the-spot verification visits inside and outside the country to obtain the information and data required for the investigation provided they obtain the approval of the parties concerned.

#### **Article 27**

In case of absence of the data required, failure to submit data within the time-limit or non-cooperation with the Investigating Authority, the Investigating Authority may proceed in the investigation procedures and come to conclusions according to the best information available.

#### **Article 28**

Investigation procedures shall not prevent clearance of consignments of the subject goods from customs.

#### **Article 29**

Subject to the requirement to protect confidential information, the Investigating Authority shall make available all information and data, relevant to the investigation, to all the parties concerned. The Investigating Authority shall disclose the confidential information to the court or the expert it appoints upon written permission from the party providing such information.

#### **Article 30**

The investigation shall be terminated if the Investigating Authority finds insufficient evidence of injurious practices, injury or causal link between both.

#### **Article 31**

The Investigating Authority shall, where conditions of an injurious practice in international trade are met, prepare a report of the conclusions reached in the investigation within three months from the date of the notice of initiation.

## **PART III: "ANTI-DUMPING"**

### **Section 1: "Dumping Calculations"**

#### **Article 32**

- **Dumping** is the introduction of a product into Egypt at an export price which is less than its normal value in the ordinary course of trade.
- **Export price** shall be the price paid or payable by the importer other than any part of the price that represents:
  - (i) Costs, charges, and expenses incurred in preparing the goods for shipment to Egypt that are additional to those costs, charges, and expenses generally incurred on sales for home consumption; and
  - (ii) Any other costs, charges, and expenses resulting from the exportation of the goods or arising from their shipment from the country of export.
- **Normal value** shall be the price paid for the like goods in the ordinary course of trade for home consumption in the country of origin/export or the cost of production plus the selling, general and administrative costs in addition to the amount of profit normally realized on sales of goods or the price at which the like product is exported to a third country.

The Investigating Authority may construct the normal value for goods originating in or exported from a state-economy country or on the basis of the data of a free-economy country with similar conditions or on any other basis it deems appropriate.

#### **Article 33**

In cases where there is no export price for the product concerned or where it appears to the Investigating Authority that the export price is unreliable because of association, relationship or a compensatory agreement between exporter and the importer or a third party, the export price may be calculated on the basis of the selling price to the first independent buyer in the domestic market or any other basis the authority deems appropriate.

#### **Article 34**

The normal value shall be constructed according to the cost of production in the country of origin plus an appropriate amount for selling, general and administrative costs and a reasonable margin of profit, or according to the export price of the goods to a third country in the following cases:

1. Where there are no sales in the domestic market of the country of export or where domestic sales are made at a loss.
2. Where domestic sales of the subject goods account for less than 5 per cent of the export sales to Egypt.

### **Article 35**

In cases where there is insufficient data to determine the export price or the normal value, the Investigating Authority may determine them on the basis of the best information available.

### **Article 36**

*The margin of dumping* is the difference between the normal value and the export price.

In calculating the margin of dumping, the Investigating Authority shall make the calculations on the same level of trade for as nearly as possible the same period, taking into consideration the factors which affect price comparability pursuant to the provisions of Article 2.4 of the Anti-Dumping Agreement.

### **Article 37**

The Investigating Authority shall calculate a separate margin of dumping for each exporter. The highest margin of dumping shall be imposed on the unknown or non-cooperative exporters.

If the number of exporters is large, the Investigating Authority may limit the investigation to a representative sample in which case the margin of dumping shall be applied as follows:

1. Individual margins of dumping or the weighted average of these margins shall be applied to the representative sample of exporters.
2. The weighted average of the dumping margins calculated for the representative sample of exporters shall be applied to the cooperative exporters not included in the sample.
3. The highest dumping margin shall be applied to the unknown or non-cooperative exporters.

### **Article 38**

The Investigating Authority shall prepare a report to recommend the termination of the investigation in the following cases:

- (a) If the volume of dumped imports from a particular country is less than 3 per cent of the volume of imports of the subject goods unless countries which individually account for less than 3 per cent of the total imports of the like product collectively account for more than 7 per cent of the total imports.
- (b) If the margin of dumping is less than 2 per cent of the export price.

## **Section 2: "Determination of Injury"**

### **Article 39**

The Investigating Authority, having examined all positive evidence, shall determine the material injury suffered by the domestic industry and shall verify the following:

1. Existence of significant increase in dumped imports, either in absolute terms or relative to production or consumption in Egypt. With regard to the effect of the dumped imports on prices the authority shall consider:
  - (a) Whether there has been a significant price undercutting by the dumped imports as compared with the price of the domestic like product.
  - (b) Whether the effect of such imports is to depress prices of the like product to a significant degree, or
  - (c) Whether the effect of such imports is to prevent price increases which otherwise would have occurred.
2. The economic effects of the dumped imports on the domestic industry reflected in the following:
  - (a) Actual and potential decline in sales, profits, production, market share, productivity, return on investment or utilization of capacity.
  - (b) Factors affecting domestic prices.
  - (c) Magnitude of the margin of dumping.
  - (d) Actual and potential negative effects on cash flow, inventories, employment, wages, investment, growth and ability to raise capital.
  - (e) Any other factors the Investigating Authority deem to be significant.

#### **Article 40**

Subject to the provisions of Article 39 of this regulation, in determining the threat of injury to the domestic industry, the Investigating Authority shall verify that the threat of injury is clear and imminent and shall consider the following:

1. The rate of increase of the dumped imports.
2. Likelihood of significant increase in dumped imports into Egypt in the light of contracts (future purchase orders).
3. Whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports.
4. The existence of significant export capacity or inventories of the product in question in the exporting companies.
5. Any other factors which the Investigating Authority determines to have an economic effect on the industry.

#### **Article 41**

The Investigating Authority shall verify that the injury suffered by the industry is caused by the dumped imports and not due to any other causes.

#### **Article 42**

The Investigating Authority shall, on receiving an application of dumped imports that led to materially retard a new industry, evaluate the contents of the application and prepare a report with their recommendations on it.

#### **Article 43**

Where imports of a product from more than one country are simultaneously subject to anti-dumping investigations, the Investigating Authority may cumulatively assess the effects of such imports only if they determine that:

1. The margin of dumping established in relation to the imports from each country is 2 per cent or more of the export price.
2. The volume of imports from each country is 3 per cent or more of the total volume of imports of the like product into Egypt.
3. The existence of competition among the imported products and between the imported products and the like domestic products.

### **Section 3: "Provisional Measures"**

#### **Article 44**

Provisional measures may take the form of a cash deposit which is not greater than the provisionally estimated margin of dumping. Such provisional measures shall not be applied sooner than 60 days from the date of initiation of the investigation and a conclusion is made by the Investigating Authority that there exists dumping which caused injury to the domestic industry.

Provisional measures shall be applied for a period not exceeding four months, which may be extended to six months.

If the provisional measures are less than the margin of dumping, they shall be applied for six months which may be extended to nine months.

### **Section 4: "Definitive Anti-Dumping Duties"**

#### **Article 45**

The Investigating Authority shall determine the amount of definitive anti-dumping duties, which will not exceed the margin of dumping.

Such duties shall be imposed on dumped imports of the product from all sources found to be causing material injury to the domestic industry, except for imports from those sources from which price undertakings have been accepted.



#### **Article 46**

Definitive anti-dumping duties shall be imposed for a period which will not exceed five years from the date of publishing the final determination of imposition in the Official Gazette.

#### **Article 47**

In cases where products subject to definitive anti-dumping duties are exported to Egypt by exporters or producers who have not exported the product to Egypt during the period of investigation, the authority shall promptly carry out a review for the purpose of determining individual margins of dumping for each of them provided that they can show that they are not related to any of the exporters or producers referred to during the course of the review.

In these cases the Investigating Authority may request guarantees that are equal to the definitive anti-dumping duties imposed on other exporters from the date of initiating the review.

### **Section 5: "Undertakings"**

#### **Article 48**

Exporters may offer to the Investigating Authority voluntary undertakings to increase the price of their exports to Egypt. Price increases under such undertakings shall not be higher than necessary to eliminate the margin of dumping established by the Investigating Authority.

In accepting, rejecting or amending undertakings the following issues shall be taken into consideration:

1. The possibility to suspend or terminate proceedings, if such undertakings are accepted and if the Investigating Authority finds these undertakings sufficient to eliminate the margin of dumping unless the exporters ask to continue the investigation.
2. Informing the exporters in case of rejection and the reasons for that rejection if practicable.
3. The Investigating Authority may also require any exporter from whom an undertaking has been accepted to periodically provide information relevant to the fulfilment of such an undertaking and to permit verification of pertinent data.

#### **Article 49**

Subject to the provisions of section 7 of this part, price undertakings shall be maintained for a reasonable period of time sufficient to eliminate the margin of dumping.

Undertakings shall automatically lapse if a decision was taken to terminate the investigation as there is no evidence of dumping or no injury was caused to the domestic industry.

#### **Article 50**

In case of violation of an undertaking the Investigating Authority may prepare a report to impose a provisional duty using the best available information or impose definitive duties. In such cases, definitive duties may be levied retroactively on the products which entered on the date of

violation of the price undertaking and not more than 90 days before the application of such provisional measures.

## **Section 6: "Retroactivity"**

### **Article 51**

Where a final determination of injury or threat thereof is made, anti-dumping duties may be levied retroactively for the period for which provisional measures have been applied.

### **Article 52**

If the definitive anti-dumping duty is higher than the provisional duty paid, the difference shall not be collected. However, if the definitive duty is lower than the provisional duty paid, the difference shall be reimbursed.

### **Article 53**

Where a determination of threat of injury or material retardation is made (but no injury has yet occurred) a definitive anti-dumping duty shall not be imposed retroactively.

### **Article 54**

A definitive anti-dumping duty may be levied on products which were entered for consumption not more than 90 days prior to the date of application of provisional measures, when the Investigating Authority determines that:

- (a) There is a history of dumping which caused injury or that the importer was aware or should have been aware that the exporter practiced dumping and that such dumping would cause injury, and
- (b) The injury is caused by increased dumped imports of a product in a relatively short time which is likely to seriously undermine the remedial effect of the definitive anti-dumping duty to be applied, provided that the importers concerned have been given an opportunity to comment.

## **Section 7: "Review of Definitive Anti-Dumping Duties"**

### **Article 55**

The Investigating Authority may, after one year from the date of imposition of definitive anti-dumping measures, review the need for the continued imposition of the duty, where warranted, upon request by any interested party which submits positive information substantiating the need for a review.

If, as a result of the review, the Investigating Authority determines that the definitive anti-dumping duty is no longer warranted it shall be terminated immediately.

If, as a result of the review, there is a need to impose definitive duties, they may be imposed for no more than five years from the date of the most recent review.

The Investigating Authority may, at any time, carry out a review on its initiative if necessary.

#### **Article 56**

The Investigating Authority shall carry out a review on its initiative or upon request by a concerned party, six months before the expiry of the five-year period from the date of the imposition of definitive duties. The Investigating Authority shall review whether the expiry of the duty is likely to lead to continuation or recurrence of dumping and injury. The duty shall remain in force pending the outcome of such a review.

Any such review shall be concluded within 12 months of the date of the initiation of the review.

### **PART IV: "SUBSIDY AND COUNTERVAILING MEASURES"**

#### **Section 1: "Definition of Subsidy"**

##### **Article 57**

**Subsidy** is any financial contribution provided directly or indirectly, by the government of the country of origin or any public body within its territory and a benefit is thereby conferred to the recipient of subsidy either producer(s) or exporter(s).

Subsidy includes any financial or other commercial benefit that has occurred or will accrue, directly or indirectly, to persons engaged in the production, manufacture, or trade of goods as a result of any scheme, programme, practice, or thing done, provided, or implemented by a foreign government, but does not include the amount of any duty or internal tax imposed on goods by the Government of the country of origin or country of export from which the goods, because of their exportation from the country of export or country of origin, have been exempted or will be relieved by means of refund or drawback.

Measures can be taken against subsidy only if it confers a benefit on the recipient, is directed or specific to certain enterprises or industries and causes material injury or threat thereof to the domestic industry or materially retards the establishment of a new industry.

#### **Section 2: "Consultations"**

##### **Article 58**

Upon acceptance of an application, the Investigating Authority shall take necessary measures to invite the governments of the exporting countries of the subsidized products under consideration to conduct consultations with the purpose of reaching mutually accepted solutions.

The Investigating Authority shall give the opportunity, as well, in the course of investigations, to conduct the above-mentioned consultations.

Conduct of consultations shall not prevent the initiation or completion of investigation.

### **Section 3: "Subsidy Calculations"**

#### **Article 59**

The amount of subsidy is the amount of money which represents the benefit conferred on the recipient. Investigating Authority shall calculate the amount of subsidy according to the following rules:

1. Determining the total amount of the subsidy provided to the products under investigating during the period of investigation.
2. A weighted average shall be used if the amount of the subsidy varies among the exporters of the country providing a subsidy.
3. Expenses and charges spent to get the subsidy shall be deducted from the amount of a subsidy.
4. The amount of the subsidy shall be calculated on a unit basis and as a percentage of the value of this unit.
5. The amount of the subsidy does not include:
  - (a) the provision of equity capital by a foreign government unless the investment decision in relation to the provision of that equity can be regarded as inconsistent with the usual investment practice of private investors in the territory of the exporting country;
  - (b) the provision of a loan by a foreign government unless the amount that the recipient of the loan pays under the loan is less than the amount that the recipient would pay under a comparable commercial loan that the recipient would obtain on the market, in which case, the benefit to the recipient shall be deemed to be the difference between those two amounts;
  - (c) the provision of a loan guarantee by a foreign government unless the amount that the recipient of the loan pays under the government guaranteed loan is less than the amount that the recipient would pay under a comparable commercial loan that was not so guaranteed, in which case, the benefit of the recipient shall be deemed to be the difference between those two amounts.

The Investigating Authority shall establish the amount of the subsidy according to the reliable available data if it does not have sufficient data to verify the amount of the subsidy.

#### **Article 60**

The Investigating Authority shall prepare a report recommending the termination of an investigation if it is found that the amount of the subsidy is less than 1 per cent of the value of subsidized goods; or where the imposition of a countervailing duty on the subject goods is inconsistent with Egypt's obligations under GATT 1994.

#### **Section 4: "Determination of Injury"**

##### **Article 61**

The Investigating Authority, having examined all positive evidence, shall determine the material injury suffered by the domestic industry and shall verify the following:

1. Existence of significant increase in subsidized imports, either in absolute terms or relative to production or consumption in Egypt. With regard to the effect of the subsidized imports on prices the authority shall consider:
  - (a) Whether there has been a significant price undercutting by the subsidized imports as compared with the price of the domestic like product;
  - (b) whether the effect of such imports is to depress prices of the like product to a significant degree; or
  - (c) whether the effect of such imports is to prevent price increases which otherwise would have occurred.
2. The economic effects of the subsidized imports on the domestic industry reflected the following:
  - (a) Actual and potential decline in sales, profits, production, market share, productivity, return on investment or utilization of capacity.
  - (b) Factors affecting domestic prices.
  - (c) Actual and potential negative effects on cash flow, inventories, employment, wages, investment, growth and ability to raise capital.
  - (d) The increase of burden on government subsidy programmes for agricultural goods.
  - (e) Any other factors the Investigating Authority deems to be significant.

##### **Article 62**

Subject to the provision of Article (61) of this regulation, in determining the threat of injury to the domestic industry, the Investigating Authority shall verify that the threat of injury is clear and imminent and shall consider the following:

1. The rate of increase of the subsidized imports.
2. The likelihood of significant increase in subsidized imports into Egypt in the light of contracts (future purchase orders).
3. Whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports.

4. The existence of significant export capacity or inventories of the product in question in the exporting companies.
5. Any other factors which the Investigating Authority determines has an economic effect on the industry.

#### **Article 63**

The Investigating Authority shall verify the injury suffered by the industry is caused by the subsidized imports and not as a result of any other causes.

#### **Article 64**

The Investigating Authority shall, on receiving an application of subsidized imports which led to materially retard a new industry, evaluate the contents of the application and prepare a report with their recommendations on it.

#### **Article 65**

Where imports of a product from more than one country are simultaneously subject to subsidy investigations, the Investigating Authority may cumulatively assess the effects of such imports only if they determine that:

1. The amount of subsidy established for each unit of the product under investigation is 1 per cent or more.
2. The existence of competition among the imported products and between the imported products and the like domestic products.

### **Section 5: "Provisional Measures"**

#### **Article 66**

Provisional measures may take the form of a cash deposit which is not greater than the amount of subsidy. Such provisional measures shall not be applied sooner than 60 days from the date of initiation of investigation and a preliminary conclusion is made by the Investigating Authority that there exists subsidy which caused injury to the domestic industry.

The application of provisional measures shall be limited to a period not exceeding four months.

### **Section 6: "Definitive Countervailing Duties"**

#### **Article 67**

The Investigating Authority shall determine the amount of definitive duties. This amount of definitive duties should not exceed the amount of the subsidy calculated for each unit under investigation.

These duties shall be imposed on the subsidized imports from all sources if it is found that they cause injury to the domestic industry. Duties will not be imposed on all countries subject to the investigation which eliminated the subsidy under investigation or those whose undertakings were accepted.

#### **Article 68**

Definitive countervailing duties shall be imposed for a period not exceeding 5 years starting from the date of publishing the notice of imposition in the Official Gazette.

#### **Article 69**

If the products subject to definitive countervailing duties are imported into Egypt by producers or exporters, not included in the proceedings for reasons other than non-cooperation with the Investigating Authority, they may ask for an expeditious review to evaluate their countervailing duties.

### **Section 7: "Undertakings"**

#### **Article 70**

Governments of the exporting countries or exporters, provided they get the approval of their governments, may offer to the Investigating Authority voluntary undertakings to increase the price of their exports to Egypt. Price increases under such undertakings shall not be higher than necessary to eliminate the margin of dumping established by the Investigating Authority.

In accepting, rejecting or amending undertakings the following issues shall be taken into consideration:

1. The possibility to suspend or terminate proceedings, if such undertakings are accepted and if the Investigating Authority finds these undertakings sufficient to eliminate the margin of dumping unless the exporters ask to continue the investigation.
2. Informing the exporters in case of rejection and the reasons for that rejection if practicable.
3. The Investigating Authority may also require exporters or governments from which undertakings have been accepted to periodically provide information relevant to the fulfilment of such undertakings and to permit verification of pertinent data.

#### **Article 71**

Subject to the provisions of section 9 of this part, price undertakings shall be maintained for a reasonable period of time sufficient to eliminate the amount of subsidy.

The undertaking shall automatically lapse if a decision was taken to terminate the investigation where there is no evidence of subsidization or material injury to the domestic industry.

## **Article 72**

In case of violation of an undertaking the Investigating Authority may prepare a report to impose a provisional duty using the best available information or impose definitive countervailing duties. In such cases, definitive duties may be levied retroactively on the products which entered on the date of violation of the price undertaking and not more than 90 days before the application of such provisional measures.

## **Section 8: "Retroactivity"**

### **Article 73**

Where a final determination of injury or threat thereof is made, definitive countervailing duties may be levied retroactively for the period for which provisional measures have been applied.

### **Article 74**

If the definitive countervailing duty is higher than the provisional duty paid, the difference shall not be collected. However, if the definitive duty is lower than the provisional duty paid, the difference shall be reimbursed.

### **Article 75**

Where a determination of threat of injury or material retardation is made (but no injury has yet occurred) a definitive countervailing duty shall not be imposed retroactively.

### **Article 76**

A definitive countervailing duty may be levied on products which were entered for consumption not more than 90 days prior to the date of application of provisional measures, when the Investigating Authority determines that:

- (a) there is material injury caused by large quantities of imports, in a relatively short time, of a product benefiting from subsidies paid or bestowed inconsistently with the provisions of GATT 1994, and
- (b) it is necessary, in order to preclude the recurrence of such injury, to impose countervailing duties retroactively.

## **Section 9: "Review of Definitive Countervailing Duties"**

### **Article 77**

The investigating Authority may, after one year from the date of imposition of definitive countervailing measures, review the need for the continued imposition of the duty, where warranted, upon request by any interested party which submits positive information substantiating the need for a review.

If, as a result of the review, the Investigating Authority determines that the definitive countervailing duty is no longer warranted it shall be terminated immediately.



If, as a result of the review, there is a need to impose definitive duties, they may be imposed for no more than five years from the date of the most recent review.

The Investigating Authority may, at any time, carry out a review on its initiative if necessary.

#### **Article 78**

The Investigating Authority shall carry out a review on its initiative or upon request by the domestic industry, six months before the expiry of the five-year period from the date of the imposition of definitive duties. The Investigating Authority shall review whether the expiry of the duty is likely to lead to continuation or recurrence of subsidy and injury. The duty shall remain in force pending the outcome of such a review.

Any such review shall be concluded within 12 months of the date of the initiation of the review.

### **PART V: "SAFEGUARD MEASURES AGAINST THE UNJUSTIFIABLE INCREASE IN IMPORTS"**

#### **Section 1: "Application of Safeguard Measures"**

#### **Article 79**

Safeguard measures against unjustifiable increase of imports are those applied against products (other than dumped or subsidized) imported into Egypt in such increased quantities, absolute or relative to domestic production and under such conditions as to cause or threaten to cause serious injury to the domestic industry that produces like or directly competitive products.

#### **Section 2: "Determination of Serious Injury or Threat Thereof"**

#### **Article 80**

**"Serious injury"** shall be understood to mean a significant overall impairment in the position of a domestic industry.

**"Threat of serious injury"** shall be understood to mean serious injury that is clearly imminent and that would cause impairment in the position of the domestic industry.

#### **Article 81**

The Investigating Authority shall determine the serious injury caused to the domestic industry on the basis of facts and the existence of a causal link between the increased imports of the product concerned and serious injury or threat thereof. The Investigating Authority shall verify the following:

1. An increase in imports of the product under investigation either absolute or relative to production in Egypt.

2. The impact of increased imports on the situation of the domestic industry, including sales, production, productivity, utilization of capacity, profits and losses, employment and market share.

### **Section 3: "Provisional Safeguard Measures"**

#### **Article 82**

Provisional safeguard measures against unjustifiable increase of imports may be imposed if the Investigating Authority finds a clear evidence that increased imports have caused or are threatening to cause serious injury that cannot be easily remedied or would be difficult to remedy should the imposition of these measures be delayed.

#### **Article 83**

Provisional safeguard measures shall take the form of tariff increases, taking into consideration the following:

1. The duration of the provisional measure shall not exceed 200 days.
2. Should such measures take the form of tariff increases, they shall be promptly refunded if the investigation does not determine that increased imports have caused or threatened to cause serious injury to the domestic industry.

### **Section 4: "Definitive Measures"**

#### **Article 84**

If it is found that the imports of the product under investigation have caused serious injury to the domestic industry or threat thereof, the Investigating Authority shall recommend to apply definitive safeguard measures in the form of quantitative restrictions or increase in customs duties or both, taking into consideration the following:

1. The definitive safeguard measure shall be applied to the extent necessary to prevent or remedy the serious injury caused to the domestic industry.
2. Where a quantitative restriction is used, the determined quantities for each country shall not be less than the average volume of imports for the most recent three years or any period the investigating authorities may consider necessary to remove the injury provided that it is justified.
3. In cases where a quota is allocated among members having a substantial interest in supplying the product, shares shall be allotted based upon the proportions, supplied by such members during a previous representative period, of the total quantity or value of imports of the product, unless justified reasons for not applying this rule are provided.
4. The period of application of a definitive safeguard measure shall be four years which may be extended to not more than 10 years including the period of application of provisional measures.

5. No safeguard measure shall be applied to the imports of a product which has been previously subject to a safeguard measure, provided that the period of non-application is at least two years.

#### **PART IV: "FINAL PROVISIONS"**

##### **Article 85**

The Minister of Trade and Supply may accept or reject the recommendations of the Advisory Committee. He may also terminate or reduce countervailing duties.

##### **Article 86**

The Minister of Trade and Supply may apply the provisions of this regulation against imports from countries that are not members in the WTO or apply protective measures against the injurious practices of these countries in international trade for the purpose of Egypt's interest.

##### **Article 87**

The Minister of Trade and Supply may impose additional duties or any other restrictions on imports in accordance with the agreements included in the Final Act of Multilateral Trade Negotiations of the Uruguay Round.

##### **Article 88**

Where a decision by the dispute settlement panels of the WTO or a final judgement is issued for termination of any measures taken in accordance with the provisions of this regulation, the Minister of Trade and Supply may terminate these measures or give directions to the Investigating Authority to reconsider these measures in the light of recommendations made by the dispute settlement panels or the final judgements.

##### **Article 89**

Member states and parties concerned shall have full opportunity to conduct consultations in consistency with the provisions of the agreements referred to.

##### **Article 90**

The Investigating Authority shall advise the committees concerned in the WTO of the notices stated in the agreements referred to.

##### **Article 91**

In applying the provisions of the agreements referred to, the Investigating Authority shall give special regard to the special situation of the developing countries.

#### **Article 92**

The Investigating Authority may give notice to initiate a new investigation or a review of the measures in force if it found that there is circumvention which affects the effectiveness of these measures.

#### **Article 93**

In cases where anti-dumping and subsidy investigations for the same product are involved simultaneously only one duty shall be imposed.

#### **Article 94**

Provisions of the agreements referred to shall be applied on matters which are not stated in this regulation.

#### **Article 95**

Parties concerned have the right of appeal to the Administrative Court concerning the measures and decisions taken pursuant to the provisions of this regulation and in accordance with the relevant rules and procedures.

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