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Committee on Safeguards

NOTIFICATIONS OF LAWS, REGULATIONS
AND ADMINISTRATIVE PROCEDURES
RELATING TO SAFEGUARD MEASURES

SOUTH AFRICA

The following communication, dated 25 October 1995, has been received from the Permanent Mission of South Africa.

Further to the requirements under the Agreement on Safeguards and in accordance with the related decisions adopted by the Committee established under this Agreement, I have the honour to provide a copy of the full text of the Board on Tariffs and Trade Act, No. 107 of 1986, as amended, and relevant extracts from the Customs and Excise Act, No. 91 of 1964¹, as amended.

¹Delegations wishing to inspect the full text of the legislation are requested to contact Miss S. Aspinall, Office 1023, Tel: 739 51 09.

STATUTES OF THE REPUBLIC OF SOUTH AFRICA - TRADE AND INDUSTRY

**BOARD ON TARIFFS AND TRADE ACT
NO. 107 OF 1986**

(ASSENTED TO 10 SEPTEMBER, 1986) (DATE OF COMMENCEMENT :
24 SEPTEMBER, 1986)

(Afrikaans text signed by the State President)

as amended by

Board on Trade and Industry Amendment Act, No. 60 of 1991
Board on Tariffs and Trade Amendment Act, No. 39 of 1995

ACT

To provide for the establishment of a Board on Tariffs and Trade and for matters related thereto.

1. Definitions. - (1) In this Act, unless the context otherwise indicates -

"Board" means the Board on Tariffs and Trade established by section 2;

"committee" means a committee contemplated in section 9;

"common customs area of Southern Africa Customs Union" means any state or territory with the government of which an agreement has been concluded under section 51 of the Customs and Excise Act, 1964 (Act No 91 of 1964);

"disruptive competition" means the export or the proposed export of goods to the Republic or the common customs area of the Southern African Customs Union, other than dumping or subsidized export, in quantities and under circumstances which cause or may cause material injury to established industries in the Republic or the common customs area of the Southern African Customs Union or which may retard the establishment of industries in the Republic or the common customs area of the Southern African Customs Union;

"dumping" means the introduction of goods into the commerce or the Republic or the common customs area of the Southern African Customs Union at an export price which is less than the normal value of the goods;

"export price" means the price actually or payable for goods sold for export net of all taxes, discounts and rebates actually granted and directly related to the sale under consideration;

"Minister" means the Minister of Trade and Industry and for Economic Co-ordination.

"normal value" means -

(a) The comparable price actually paid or payable in the ordinary course of trade for like goods intended for consumption in the exporting country or countries of origin; or

(b) in the absence of a price contemplated in paragraph (a) -

(i) the highest comparable price at which similar goods are being exported to any third country in the ordinary course of trade; or

(ii) the constructed cost of production of the goods in the country of origin plus a reasonable addition for selling costs and profit;

Provided that due allowance shall be made in each case for differences in conditions and terms of sale, for differences in taxation, and for other differences affecting price comparability;

"subsidized export" means the export or the proposed export of goods to the Republic or the common customs area of the Southern African Customs Union from any country where the authority of that country or any other country provides any form of financial aid or other assistance in respect of those goods, including assistance in respect of the production, manufacture, transport or export thereof.

(2) If, in the investigation of dumping as contemplated in section 4(1)(a)(i) -

(a) the Board is of the opinion that the normal value of the goods concerned is, as a result of government intervention, not determined in the exporting country or country of origin according to free market principles, a comparable price of a third country may be applied to the goods of the exporting country or country of origin concerned;

(b)(i) it is found that there is no export price as contemplated in the definition of 'dumping'; or

(ii) it appears that in respect of the export price there is an association or a compensatory arrangement between the exporter concerned and the importer or the third party concerned;
or

(iii) it is found that for any other reason the export price actually paid or payable for the goods sold is unreliable,

'export price' in the said definition shall be construed to mean the price constructed on the basis of the price at which the imported goods are first resold to an independent buyer, or where not resold in the condition imported, on any reasonable basis.

2. Establishment of Board on Tariffs and Trade. - There is hereby established a board to be known and the Board on Tariffs and Trade.

3. Objects of Board. - The objects of the Board are to promote industrial growth within the framework of the economic policy of the Republic by conducting investigations into any matter which affects or may affect the trade and industry of the Republic or the common customs area of the Southern African Customs Union, and to advise the Minister in this regard.

4. Functions of Board. - (1) For the purposes of achieving its objects and subject to the provisions in any other law contained, the Board may -

(a)(i) of its own accord investigate dumping, subsidized export or disruptive competition in or to the Republic and, if authorized thereto by an agreement, in or to the common customs area of the Southern African Customs Union;

(ii) of its own accord investigate the development of industries in the Republic and, if authorized thereto by an agreement, in the common customs area of the Southern African Customs Union by the levying of customs and excise duties;

(iii) by order of the Minister investigate any other matter which affects or may affect the trade and industry of the Republic and, if authorized thereto by an agreement, the common customs area of the Southern African Customs Union; and

(b) report and make recommendations to the Minister in respect of any investigation referred to in paragraph (a).

(2) Upon receipt of the report and recommendations referred to in subsection (1) (b), the Minister may -

(a) accept or reject such report and recommendations, or refer them back to the Board for reconsideration;
and

(b) if he accepts the report and recommendations concerned, request the Minister of Finance to amend the relevant Schedule to the Customs and Excise Act, 1964 (Act No. 91 of 1964).

(3) The Board shall as soon as possible after 31 December of each year submit a report to the Minister regarding its functions during the preceding year.

(4) The work incidental to the performance of a duty or the exercise of a power of the Board shall be performed by officers or employees of the Department of Trade and Industry designated for that purpose by the Director-General : Trade and Industry.

5. Constitution of Board.- (1) The Board shall consist of such number of full-time and part-time members, but not fewer than four, as the State President may from time to time determine.

(2) The members of the Board shall be appointed by the State President by reason of their knowledge of and experience in commerce, industry and the economy.

6. Chairman and deputy chairman.- (1) The State President shall designate one of the members of the Board as chairman of the Board and another as deputy chairman.

(2)(a) When the Chairman is absent or not able to perform his functions as chairman, or when there is a vacancy in the office of the chairman, the deputy chairman shall act as chairman, and if the chairman as well as the deputy chairman are absent or not able to perform the functions of the chairman, the Board shall elect another member to act as chairman.

(b) Such member shall while acting as chairman have all the powers and perform all the duties of the chairman.

7. Period of office, vacation of office and filling of vacancies.- (1) A member of the Board shall be appointed for such period, not exceeding five years, as the State President may determine at the time of the appointment.

(2) A member of the Board shall vacate his office if he resigns or if the State President terminates his period of office if there is in the opinion of the State President a sound reason therefor.

(3) Any person who has ceased to be a member of the Board by effluxion of time may be reappointed.

(4) If a member of the Board ceases to hold office, the State President may, subject to section 5, appoint somebody to fill the vacancy.

8. Meetings of Board.- (1) The first meeting of the Board shall be held at the time and place determined by the Minister, and thereafter a meeting of the Board shall be held at the time and place determined by the Board or, if authorized thereto by the Board the chairman of the Board.

(2) A quorum for a meeting of the Board shall not be less than one-third of all its members, with a minimum of three.

(3) A decision of the majority of the members of the Board present at a meeting shall constitute a decision of the Board, and in the event of an equality of votes the chairman shall have a casting vote in addition to his deliberative vote.

(4) All decisions of the Board shall be recorded.

9. Committees.- (1) The Board may, with the consent of the Minister, establish from among their number committees.

(2) Any such committee shall consist of such number of members as the Board may determine.

(3) The Board shall designate one of the members of the committee as chairman thereof, and if any such chairman is absent from a meeting of the committee the members present shall elect one from among their number to act as chairman at that meeting.

(4)(a) The Board may, subject to such directions as it may issue from time to time-

(i) delegate any power granted to it by or under section 4 to such a committee; and

(ii) grant authority that a duty assigned to it by or in terms of section 4 may be performed by such a committee.

(b) The Board shall not be divested of a power so delegated and the performance of a duty so authorized, and may amend or set aside any decision of a committee.

10. Co-option of persons to serve on or advise committees.-(1) A committee may co-opt any person to serve on a committee or to attend a particular meeting thereof in connection with a particular matter dealt with by the committee.

(2) Such a person may take part in the proceedings of the committee in connection with the matter or at the meeting in respect of which he has been co-opted, but shall not be entitled to vote.

11. Remuneration and allowances of members of Board and other persons.- Members of the Board and persons referred to in sections 10, 13 and 14 who are not in the employment of the State, shall be paid, from moneys appropriated by Parliament for that purpose, such remuneration and allowances as the Minister may with the concurrence of the Minister of Finance determine.

12. Enquiries by Board or committees.-(1) The Board or a committee may, subject to the directions of the Minister, conduct such enquiry as the Board or committee deems necessary to enable it to perform its functions.

(2) The Board or a committee may for the purposes of an enquiry referred to in subsection (1) summon any person to give evidence at the enquiry or to produce any book, writing or document which in the opinion of the Board or a committee is relevant to the subject matter of the enquiry.

(3)(a) A summons to attend as a witness before, or to produce any book, writing or document to, the Board or a committee shall be in the form determined by the chairman of the Board.

(b) Such summons shall be signed by the chairman of the Board or of a committee, as the case may be, and shall be served in the same manner as a summons to attend as a witness at a criminal trial in the Supreme Court.

(4) The Board or a committee may call and examine any person present at the enquiry, whether or not he has been summoned to attend in terms of subsection (2), and may inspect and retain for a reasonable period any book, writing or document the production of which was required in terms of subsection (2) or which he has with him; Provided that in connection with the examination of any such person or the production of any such book, writing or

document, the law relating to privilege as applicable to a person subpoenaed to give evidence or to produce any book, writing or document before a court of law, shall apply.

(5)(a) Whenever the Board or a committee deems it necessary, it may direct a person to give his evidence on oath or affirmation.

(b) The chairman of the Board or of a committee, as the case may be, may administer the oath to or accept an affirmation from the person concerned.

(6) A person who has been summoned to give evidence at such enquiry shall be entitled to receive from moneys appropriated by Parliament for that purpose, as witness fees an amount equal to the amount which he would have received as witness fees if he has been summoned to attend at a criminal trial in the Supreme Court held at the place specified in the summons sent to him.

(7) The Board or a committee may for the purposes of such enquiry direct any person to furnish it with information in the manner determined by it.

13. Delegation by Board or committees.-(1) The Board or a committee may, subject to the directions of the Minister, delegate its powers regarding an enquiry under section 12 to an officer or employee of the Department of Trade and Industry designated for the purpose by the Director-General: Trade and Industry or, with the approval of the Minister, any other person.

(2) The chairman of the Board or of a committee may -

(a) grant authority that a duty assigned to him by section 12(3)(b) may be performed by an officer, employee or other person referred to in subsection (1); and

(b) delegate any power granted to him by section 12 (5)(b) to an officer, employee or other person referred to in subsection (1).

14. Investigating officers.- (1) Subject to the directions of the Minister the Board may, in order to obtain information which is required with regard to an enquiry under section 12, designate a member of the Board, an officer or employee of the Department of Trade and Industry designated for that purpose by the Director-General: Trade and Industry or, with the approval of the Minister, any other person, as an investigating officer, and such an investigating officer may at all reasonable times without previous notice enter premises on or in which there is or may be any commodity, book, statement or other document which is related to the specific information and may-

(a) inspect or search such premises;

(b) demand, information regarding the said commodity, book, statement or other document from the owner or person in charge of the premises;

(c) investigate a commodity, book, statement or other document which is found in or on those premises and which has or probably has relevance to any matter which may concern the said investigation, or make copies of or extracts from such book, statement or other document; and

(d) demand from the owner or anyone in charge of those premises or of anyone in whose possession or under whose control that book, statement or other document is, an explanation of any entry therein.

(2) A person designated under subsection (10) shall be provided with an authority signed by the chairman of the Board and in which it is stated that such person is assigned as an investigating officer in terms of this Act.

(3) Before an investigating officer referred to in subsection (1) performs a function under this section he shall at the request of a person who is affected by an investigation produce the authority issued to him in terms of subsection (2).

15. Establishment and maintenance of accounting and costing systems.- The Board may, with the approval of the Minister, require any person engaged in any particular industry or any branch thereof protected by a customs tariff or receiving any form of State aid, to establish and maintain in respect of his business or undertaking an accounting and costing system approved by the Board for that industry or that branch thereof : Provided that -

(a) the Board shall determine the establishment of an accounting and costing system for an industry or any branch thereof only after consultation with that industry or that branch thereof;

(b) in approving of an accounting and costing system for an industry or any branch thereof, the Board shall give due consideration to the circumstances surrounding that industry or that branch thereof; and

(c) if the Board is satisfied that an industry or any branch thereof is hampered in the performance of its functions as a result of the establishment of the accounting and costing system under this section, it may with the concurrence of the Minister direct that such accounting and costing system be adapted in the manner it thinks fit.

16. Declaration of interest.- Whenever the Board or a committee considers any matter in which a member thereof has a pecuniary interest, that member shall declare the nature, extent and particulars of this interest to the Board or such committee, as the case may be, and thereupon the Board or the committee may, if it deems it necessary, request the member to excuse himself from participating in the proceedings of the Board or such committee for as long as that matter is being considered by the Board or the committee.

16A. Regulations.- The Minister may, after consultation with the Board, make regulations regarding -

(a) procedures in connection with any function of the Board; and

(b) any other matter in connection with the achievement of the objects of the Board.

17. Preservation of secrecy.- No person shall except for the purposes of the performance of his functions in terms of this Act or when required to do so by any court of law or under any law, disclose to any other person any information acquired by him in the performance of his functions in terms of this Act and relating to the business or affairs of any other person.

18. Tabling of reports and recommendations.- Every report and recommendation contemplated in section 4(1)(a) -

(a) in connection with amendments to the Schedules to the Customs and Excise Act, 1964 (Act No 91 of 1964); and

(b) in connection with any other matter, and which in the opinion of the Minister -

- (i) could be made known without detriment to the public interest; and
- (ii) is of general importance.

shall be laid upon the Table by the Minister in Parliament as soon as possible after receipt thereof.

19. Offences and penalties.- Any person who -

- (a)(i) without sufficient cause (the onus of proof of which shall rest upon him) has failed to furnish the information required of him in terms of section 14(1)(d) or 12(7); or
- (ii) knowingly furnishes information which is false or misleading;
- (b)(i) having been summoned to give evidence at an enquiry under section 12, without sufficient cause (the onus of proof of which shall rest upon him) fails to attend at the time and place specified in the summons, or fails to remain in attendance until the person presiding at the enquiry has excused him from further attendance;
- (ii) having been called under section 12(4), without sufficient cause (the onus of proof of which shall rest upon him)-
 - (aa) refuses to appear as a witness;
 - (bb) refuses to be sworn in or to make an affirmation as a witness after he has been directed under section 12(5)(a) to do so;
 - (cc) refuses to answer or fails to answer to the best of his knowledge and ability any question put to him; or
 - (dd) refuses to comply with a requirement to produce a book, writing or document specified in the summons or which he has with him; or
- (iii) tampers with or hinders, obstructs, threatens, deceives or in any way unduly influences any person with regard to evidence to be given or a book, writing or document to be produced by such person;
- (c)(i) hinders or obstructs an investigating officer in the exercise of his powers under section 14; or
- (ii) when an investigating officer requires of him information or an explanation under section 14 (1)(b) or (d), fails or refuses to furnish that information or to give that explanation or knowingly furnishes information or gives an explanation which is false or misleading;
- (d) Without sufficient cause (the onus of proof of which shall rest upon him) fails or refuses within a period specified by the Board, which period shall not be less than six months to establish or maintain an accounting and costing system in terms of section 15;
- (e) fails to comply with a provision of section 16; or
- (f) contravenes section 17.

shall be guilty of an offence and be liable on conviction to a fine not exceeding R2 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

20. Repeal of laws, savings and transitional provisions.-

- (1) Subject to the provisions of this section the laws specified in the Schedule are hereby repealed.

- (2) Every person who immediately prior to the commencement of this Act held in terms of the provisions of the Board of Trade and Industries Act, 1944 (Act No. 19 of 1944), the office of chairman, deputy chairman or member of the Board of Trade and Industries shall be deemed to have been appointed by the State President in terms of the provisions of this Act for the unexpired period of his office as such.
- (3) If any matter which before the commencement of this Act was referred to the Board of Trade and Industries established in terms of the Board of Trade and Industries Act, 1944, has not been disposed of by that board or a committee thereof before such commencement, the Board on Tariffs and Trade established in terms of this Act may continue with the disposal of that matter in accordance with the provision of this Act, and anything done by the first-mentioned Board in connection with that matter shall be deemed to have been done by the Board established in terms of this Act.
- (4) Anything done under a provision of the Board on Tariffs and Trade Act, 1944 and which may be done under a provision of this Act, shall be deemed to have been done under the latter provision.

21. Short title.- This Act shall be called the Board on Tariffs and Trade Act, 1986.

STATUTES OF THE REPUBLIC OF SOUTH AFRICA - CUSTOMS AND EXCISE

**CUSTOMS AND EXCISE ACT
NO. 91 OF 1964**

[Issue No. 28 - Supplementary]

ACT

To provide for the levying of customs and excise duties and a surcharge; for a fuel levy, the prohibition and control of the importation, export or manufacture of certain goods; and for matters incidental thereto.

CHAPTER I

Definitions

1. Definitions

(1) In this Act, unless the context otherwise indicates, any reference to customs and excise or matters relating thereto shall be deemed to include a reference to surcharge and fuel levy or matters relating thereto, and

"Commissioner" means the Commissioner for Customs and Excise mentioned in section 1B;

"Common customs area" means the combined area of the Republic and territories with the governments of which customs union agreements have been concluded under section 51;

"Controller", in relation to any area or any matter, means the officer designated by the Commissioner to be the Controller of Customs and Excise in respect of that area or matter and includes an officer acting under the control or direction of any officer so designated by the Commissioner;

"customs duty" means, subject to the provisions of sub-section (3), any duty leviable under Schedule No. 1 (except Parts 4 and 5 thereof) or No. 2 on goods imported into the Republic;

"duty" means any duty leviable under this Act;

"entry for home consumption" includes entry under any item in Schedule No. 3, 4 or 6;

"exporter" includes any person who, at the time of exportation:

(a) owns any goods exported;

(b) carries the risk of any goods exported;

(c) represents that or acts as if he is the exporter or owner of any goods exported;

(d) actually takes or attempts to take any goods from the Republic;

(e) is beneficially interested in any way whatever in any goods exported;

(f) acts on behalf of any person referred to in paragraph (a), (b), (c), (d) or (e),

and, in relation to imported goods, includes the manufacturer, supplier or shipper of such goods or any person inside or outside the Republic representing or acting on behalf of such manufacturer, supplier or shipper;

"goods" includes all wares, articles, merchandise, animals, currency, matter or things;

"home consumption" means consumption or use in the Republic;

"importer" includes any person who, at the time of importation:

(a) owns any goods imported;

(b) carries the risk of any goods imported;

(c) represents that or acts as if he is the importer or owner of any goods imported;

(d) actually brings any goods into the Republic;

(e) is beneficially interested in any way whatever in any goods imported;

(f) acts on behalf of any person referred to in paragraph (a), (b), (c), (d) or (e);

"manufacture", when used as a noun, includes, in the discretion of the Commissioner, any process:

(a) in the manufacture or assembly of any excisable goods or fuel levy goods;

(b) in the conversion of any goods into excisable goods or fuel levy goods;

(c) whereby the dutiable quantity or value of any imported goods specified in Section B of Part 2 of Schedule No. 1, excisable goods or fuel levy goods is increased in any manner;

(d) in the recovery of excisable goods or fuel levy goods from excisable goods or any other goods; or

(e) in the packing or measuring off of any imported goods specified in Section B of Part 2 of Schedule No. 1, excisable goods or fuel levy goods,

and, when used as a verb, has a corresponding meaning; and "manufacturer" has a corresponding meaning;

"Minister" means the Minister of Finance;

"Office" means the Office of the Commissioner for Customs and Excise mentioned in section 1A;

"prescribed" means prescribed by this Act;

"regulation" means a regulation made by the Minister under this Act;

"rule" means a rule made by the Commissioner under this Act;

"this Act" includes any proclamation, government notice, regulation or rule issued or made or agreement concluded or deemed to have been concluded thereunder or any taxation proposal contemplated in section 58 which is tabled in the House of Assembly;

(3) For the purposes of any customs union agreements concluded under section 51:

(a) "customs duty" includes any duty leviable under Part 4 of Schedule No. 1 on goods imported into the Republic and, except for the purposes of articles 13 and 14 of the said agreement, any duty leviable under Part 5 or 8 of Schedule No. 1 on goods imported;

(b) "excise duty" includes, except for the purposes of articles 13 and 14 of the said agreement, any duty leviable under Part 5 or 8 of Schedule No. 1 on goods manufactured in the common customs area.

CHAPTER VI

Anti-Dumping, Countervailing and Safeguard Duties

55. General provisions regarding anti-dumping and countervailing and safeguard duties

- (1)The goods specified in Schedule No. 2 shall, upon entry for home consumption, be liable, in addition to any other duty payable in terms of the provisions of this Act, to the appropriate anti-dumping, countervailing or safeguard duties provided for in respect of such goods in that Schedule at the time of such entry, if they are imported from a supplier, or originate in a territory, specified in that Schedule in respect of those goods.
- (2)(a)The imposition of any anti-dumping duty in the case of dumping as defined in the Board on Tariffs and Trade Act, 1986 (Act No. 107 of 1986), a countervailing duty in the case of subsidized export as so defined or a safeguard duty in the case of disruptive competition as so defined and the rate at which or the circumstances in which such duty is imposed in respect of any imported goods shall be in accordance with any request by the Minister of Trade and Industry and for Economic Co-ordination under the provisions of the Board on Tariffs and Trade Act, 1986.
- (b)Any such anti-dumping duty or countervailing duty may be imposed in respect of the goods concerned in accordance with such request with effect from the date on which any provisional payment in relation to anti-dumping or countervailing duty is imposed in respect of those goods under section 57A.
- (3)(a)Whenever any anti-dumping, countervailing or safeguard duty is imposed on any goods under the provisions of this Chapter, the owner of any such goods stored in a customs and excise warehouse shall produce the invoice and other documents relating to such goods to the Controller not later than the time of entry of all or any part of such goods for removal from such warehouse.
- (b)The provisions of paragraph (a) shall not apply in the case of such goods entered for export from a customs and excise warehouse.
- (4)An anti-dumping, countervailing or safeguard duty imposed under the provisions of this Chapter shall not apply to any goods entered under the provisions of any item specified in Schedule No. 3 or 4 unless such item is specified in Schedule No. 2 in respect of such goods.
- (5)Notwithstanding the provisions of section 56, 56A or 57, the Commissioner may, subject to such conditions as he may impose in each case, exempt from payment of any anti-dumping, countervailing or safeguard duty, any goods which are imported in such circumstances or in such quantities that the importation of such goods does not, in his opinion, constitute regular importation of such goods for trade purposes.

56. Imposition of anti-dumping duties

- (1)The Minister may from time to time by notice in the *Gazette* amend Schedule No. 2 to impose an anti-dumping duty in accordance with the provisions of section 55(2).
- (2)The Minister may, in accordance with any request by the Minister of Trade and Industry and for Economic Co-ordination, from time to time by notice in the *Gazette* withdraw or reduce,

with or without retrospective effect and to such extent as may be specified in the notice, any anti-dumping duty imposed under sub-section (1).

(3)The provisions of section 48(6) shall *mutatis mutandis* apply in respect of any amendment, withdrawal or reduction made under the provisions of sub-section (1) or (2) of this section.

56A. Imposition of countervailing duties

(1)The Minister may from time to time by notice in the *Gazette* amend Schedule No. 2 to impose a countervailing duty in accordance with the provisions of section 55(2).

(2)The Minister may, in accordance with any request by the Minister of Trade and Industry and for Economic Co-ordination, from time to time by notice in the *Gazette* withdraw or reduce, with or without retrospective effect and to such extent as may be specified in the notice, any countervailing duty imposed under sub-section (1).

(3)The provisions of section 48(6) shall *mutatis mutandis* apply in respect of any amendment, withdrawal or reduction made under the provisions of sub-section (1) or (2) of this section.

57. Imposition of safeguard duties

(1)The Minister may from time to time by notice in the *Gazette* amend Schedule No. 2 to impose a safeguard duty in accordance with the provisions of section 55(2).

(2)The Minister may, in accordance with any request by the Minister of Trade and Industry and for Economic Co-ordination, from time to time by notice in the *Gazette* withdraw or reduce, with or without retrospective effect and to such extent as may be specified in the notice, any safeguard duty imposed under sub-section (1).

(3)The provisions of section 48(6) shall *mutatis mutandis* apply in respect of any amendment, withdrawal or reduction made under the provisions of sub-section (1) or (2) of this section.

57A. Imposition of provisional payment

(1)Whenever the Board on Tariffs and Trade publishes a notice in the *Gazette* to the effect that it is investigating the imposition of an anti-dumping duty or a countervailing duty on goods imported from a supplier or originating in a territory specified in that notice, the Commissioner shall, in accordance with any request by the said Board, by notice in the *Gazette* impose a provisional payment in respect of those goods for such period and for such amount as the Board may specify in such request.

(2)The Commissioner shall, in accordance with any request by the said Board, by further notice in the *Gazette* extend the period for which the provisional payment mentioned in sub-section (1) is imposed or withdraw or reduce it with or without retrospective effect and to such extent as may be specified in the request.

(3)Such provisional payment shall be paid on goods subject thereto, at the time of entry for home consumption thereof, as security for any anti-dumping or countervailing duty which may be retrospectively imposed on such goods under section 56 or 56A and may be set off against the amount of the retrospective anti-dumping or countervailing duty payable.

(4) If no anti-dumping or countervailing duty is imposed before expiry of the period for which a provisional payment in relation to the goods concerned has been imposed, the amount of such payment shall be refunded.

(5) If the amount of any such provisional payment on the said goods:

(a) exceeds the amount of any anti-dumping or countervailing duty retrospectively imposed on such goods under section 56 or 56A, the amount of the difference shall be refunded; or

(b) is less than the amount of the anti-dumping or countervailing duty so imposed, the amount of the difference shall not be collected.