

# GCC Common Law of Anti-dumping ,Countervailing Measures and Safeguards (Rules of Implementation)

## **Preamble**

Inspired by the basic objectives of the Cooperation Council for the Arab States of the Gulf (GCC), and

In line with the objectives of the GCC Economic Agreement seeking to achieve economic integration among the GCC Member States, and  
Recognizing the importance of the role the GCC industry plays in the economies of the GCC Member States,

The GCC Member States have found out that they should take appropriate measures against the injurious practices in international trade exercised by Non-member countries that cause or threaten material injury to an established GCC industry or retard the establishment of such industry.

**In the light of the above**, the Supreme Council, at its 24<sup>th</sup> Session held at Kuwait (21-22 December 2003) has adopted the GCC Common Law on Anti-dumping, Countervailing Measures and Safeguards to be a binding law as from January 1<sup>st</sup> 2004. To that effect, the Supreme Council has instructed the Industrial Cooperation Committee (ICC) to prepare the relevant Rules of Implementation within the first half of year 2004, provided that such law shall come into force after thirty days following the adoption of the said Rules of Implementation by the ICC.

**Accordingly**, the ICC has adopted the said Rules of Implementation at its 23<sup>rd</sup> meeting held at Kuwait (11 October 2004).

**The Secretariat-General** would like to extend its utmost thanks and appreciation to all the technical committees that have faithfully and diligently contributed to the preparation of this law to support the industrial process and increase the industrial sector's contribution to the national income of the GCC States.

# **PART ONE**

## **GCC Common Law on Anti-dumping, Countervailing Measures and Safeguards**

### **GCC Common Law on Anti-dumping, Countervailing Measures and Safeguards**

#### **Article 1**

##### **Objective and Scope**

The objective of the present law is to prevent the GCC economies from the injurious practices in international trade that cause or threaten material injury to an established GCC industry or retard the establishment of such industry which can be achieved by taking appropriate GCC measures against such practices.

These practices include:

1. Dumping
2. Subsidy
3. Unjustifiable increase in imports

#### **Article 2**

##### **Definitions**

The following terms shall have the meanings assigned against each, unless the context otherwise requires:

“*Council*”: the Cooperation Council for the Arab States of the Gulf (GCC)

“*Member States*”: GCC Member States

“*Ministerial Committee*”: GCC Industrial Cooperation Committee (ICC)

“*Permanent Committee*”: the committee concerned with the prevention of the GCC economies from the injurious practices in international trade exercised by Non-Member countries.

“*Technical Secretariat*”: Technical Secretariat of the Permanent Committee.

“*Dumping*”: exportation of products to the GCC States at an export price lower than their normal price in the course of ordinary trade.

“*Subsidy*”: a direct or indirect financial contribution by the government of the country of origin or any public body within that country.

“*Unjustifiable increase of imports*”: the importation into the GCC States of non-dumped or non-subsidized products in large quantities either in absolute terms or relative to the domestic production which cause serious injury to an established GCC industry.

“*GCC markets*”: Overall markets of the GCC Member States.

“*Products under investigation*”: the products under investigation as stated in the complaint.

“*Anti-dumping measures*”: proceedings and measures taken against dumping.

“*Countervailing measures*”: measures taken against prohibited or actionable subsidy.

“*Safeguards*”: Measures taken against the unjustifiable increase of imports.

“*Rules of Implementation*”: Rules for implementation of the provisions of this law.

These Rules of Implementation spell out the details and clarifications of certain technical terms provided for herein as well as any other terms that need to be provided for in these Rules of Implementation.

### **Article 3**

#### **Imposition of Measures**

Anti-dumping or countervailing measures shall be imposed on the dumped or subsidized products imported into the GCC States if they are found to cause or threaten material injury to an established GCC industry or retard the establishment of a GCC industry.

Safeguard measures shall be imposed on the products imported into the GCC markets in an unjustifiable increase, absolute or relative to production, that may cause or threaten material injury to a GCC industry directly producing like or competitive products.

### **Article 4**

#### **Provisional Measures**

In urgent circumstances where delay may cause a non-remediable injury, provisional measures may be taken pursuant to the conditions and stipulations provided for in the Rules of Implementation.

### **Article 5**

#### **Definitive measures**

Definitive measures aimed at confronting dumping, subsidies or unjustifiable increase of imports may be taken where investigation definitely proves the occurrence of dumping, subsidy or unjustifiable increase in imports, and where the public interest of the GCC Member States necessitates the imposition of such measures. Such measures may be suspended, reduced or increased.

### **Article 6**

#### **Forms of Measures**

Anti-dumping, countervailing measures and safeguards can take any forms including, *inetr alia*, the imposition of customs duties or quantitative restrictions or both.

### **Article 7**

#### **Complaint and investigation proceedings**

The Permanent Committee shall determine, pursuant to the provisions of the Rules of Implementation, whether to keep the complaint, initiate investigation proceedings, terminate it, take any provisional measures or accept price undertakings.

### **Article 8**

#### **Composition of the Permanent Committee**

The Permanent Committee shall be composed of representatives of the governments of the Member States. The head of the delegation of each Member State shall be at

deputy minister (undersecretary) level or his authorized representative. The authorized representative shall have the same powers vested unto the deputy minister (undersecretary).

The Permanent Committee shall be chaired in accordance with the GCC presidency regulation.

The Rules of Implementation spell out the rules for formation of the committees and secretariat as well as the detailed and procedural provisions for preventing the practices injurious to international trade exercised by Non-member countries against the GCC States and the relevant forms, papers and documents. The PC Rules of Procedures describe the work system, places and dates of holding its ordinary and extraordinary meetings, the majority required for holding its meetings, decision making and the provisions related to the implementation of its decisions.

## **Article 9**

### **Functions of the Permanent Committee**

In addition to the other functions mentioned in other Articles herein, the Permanent Committee shall exercise the following functions in particular:

1. Take the necessary measures and procedures under the provisions of this Law, including the imposition of provisional measures and price undertakings.
2. Establish committees, including investigation committees, and the relevant administrative units preventing such practices pursuant to the provisions of the Rules of Implementation. To this effect, the PC shall be empowered to seek advice and request information from any source as it deems appropriate.
3. Propose imposition of definitive anti-dumping and countervailing duties to prevent subsidies and submit the same to the Ministerial Committee. Also propose imposition of definitive safeguard measures to prevent the unjustifiable increase of imports.
4. Provide technical advice and support to the GCC producers facing claims related to dumping, subsidy or safeguards in other countries and follow up the proceeding of such claims.
5. Promote awareness of the concepts of dumping, subsidy and safeguards in the GCC States.
6. Propose appropriate solutions for settlement of the disputes that may arise between Member States over interpretation of the present law.
7. Adopt the Rules of Procedures
8. Participate in the activities of the relevant international organizations and events.
9. Establish subcommittees when necessary.
10. Carry out any other functions per the Rules of Implementation.

## **Article 10**

### **Ministerial Committee**

The Industrial Cooperation Committee (ICC) shall take final decisions in the following matters:

1. Approve the definitive measures relating to anti-dumping, countervailing measures or safeguards, or suspending, terminating, increasing or reducing such measures.
2. Settlement of the disputes that may arise between Members over interpretation of this law.
3. Adopt the Rules of Implementation.

4. Consider the complaints related to the resolutions taken for implementing the provisions of this law.

#### **Article 11**

##### **Technical Secretariat of the Permanent Committee**

The Technical Secretariat of the Permanent Committee shall perform all administrative and technical activities of the Permanent Committee and shall carry out its duties and functions as set forth in the Rules of Implementation.

#### **Article 12**

##### **Appeal**

The judgments given under this law by the Ministerial Committee or the Permanent Committee may be appealed against before a competent juridical board composed of the Member States and chaired by a jurist of the GCC States.

#### **Article 13**

##### **Confidentiality of information**

The persons or entities involved in investigation and implementation of measures, procedures or decisions under this law and the Rules of Implementation thereof shall maintain confidentiality of the information and details supplied by the interested persons. Such information and details may not be disclosed unless by a prior written approval of the person supplying such information and details.

#### **Article 14**

##### **Penalties**

Without prejudice to any other sterner penalties provided for in any other law, a fine, commensurable to the damage incurred, shall be imposed on the violation of disclosing the confidential information provided for in the preceding Article. The method of calculating such fine shall be explained by the Rules of Implementation of this law.

#### **Article 15**

##### **Rules of Implementation**

The Industrial Cooperation Committee shall issue the Rules of Implementation of this law.

#### **Article 16**

The Financial and Economic Cooperation Committee (FECC) shall be authorized to interpret and amend the present law in coordination with the Industrial Cooperation Committee.

#### **Article 17**

##### **Coming Into Force**

This law shall come into force as of January 1<sup>st</sup> 2004 and shall be published in the official gazettes of the Member States.

# **PART TWO**

Rules of Implementation  
Of the

## **GCC Common Law on Anti-dumping, Countervailing Measures and Safeguards**

Rules of Implementation

## **Of the GCC Common Law on Anti-dumping, Countervailing Measures and Safeguards**

### **SECTION (I)**

### **General Provisions**

#### **Article 1**

In applying these Rules of Implementation, the following words and terms shall have the same meanings defined in Article (2) Of the GCC Common Law on Anti-dumping, Countervailing Measures and Safeguards, unless the context otherwise requires.

*“Material injury”*: the injury that seriously impairs the GCC industry.

*“Threat of material injury”*: the imminent injury that results in an adverse effect on the GCC industry.

*“the amount of subsidy”*: the sum representing the benefit which the subsidy recipient would get.

*“the complaining party”*: the GCC industry filing the complaint or its authorized representative.

*“Like products”*: GCC products or any other products that are similar or identical in all aspects to the product in question.

*“the exporting country”*: the government or regional or local authority of a foreign country, a body or organization exercising authority on behalf of an association of foreign countries or any person or body agency those entities.

*“interested parties”*: producers whose industry inputs incorporate the product under investigation, the public or private bodies representing consumers or protecting their interests, governments of the exporting countries or any other national or foreign parties having interest in a case under investigation.

*“GCC industry”*: the GCC producers of the like whose collective output production represents a major proportion of the GCC production of those products.

*“independent buyer”*: the buyer who is in no way related to the importer; there is no commercial or production partnership between the buyer and the importer in any other business, they are not directly or indirectly controlled by a third party or members of the same family.

*“the margin of dumping”*: the difference between the normal price and the export price.

*“normal price”*: the price at which the products are sold, in the ordinary course of trade, in the domestic markets of the country of origin or exportation plus the

overheads and the usual profit margin, or the price at which like products are exported to a third country.

*“export price”*: the price of the products paid or payable by the importer without incurring him any charges or costs beyond those payable when products are sold for domestic consumption in the country of origin or exportation.

*“Safeguards against the unjustifiable increases in imports”*: measures taken against the importation into the GCC States of non-dumped or non-subsidized products in large quantities, either absolute or relative to domestic production, which cause or threaten material injury to an established GCC industry producing like or competitive products.

#### **Article 2**

The procedures, duties and measures provided for herein apply to the imported products released by a GCC customs office. However, the investigation procedures provided for herein shall not prevent an imported product to be released by customs just because it is under investigation.

#### **Article 3**

The decision to keep the complaint (application) or to initiate or terminate investigation, or to take any provisional measures, accept price undertakings or any other relevant decisions, procedures or measures shall be effected by a decision of the Permanent Committee in the light of the investigation findings.

Approval of the definitive measures relating to anti-dumping, countervailing measures or safeguards, suspension, termination, increasing or reducing such measures shall be effected by a resolution of the Ministerial Committee based on a proposal by the Permanent committee.

#### **Article 4**

The Technical Secretariat (TS) shall monitor and follow up implementation of the PC decisions. The functions, competency and administration, including information management, rules of procedures and financial rules, of the Technical Secretariat shall be specified by a resolution of the PC.

#### **Article 5**

The Technical Secretariat shall submit to the PC comprehensive periodic quarterly reports containing information and statistics about its activities as well as the activities of the investigation committees and the registered or tried cases and the relevant time periods thereof. In addition to the other duties and functions entrusted to it herein.

#### **Article 6**

The Technical Secretariat shall keep registers of the filed complaints (applications) reflecting all the relevant procedures and actions taken. The TS shall also keep an archive of the confidential data and information that may be accessed only by members of the investigation committees. These registers and non-confidential data may be disclosed to interested parties other than committee members upon a decision by the PC chairman, when so required.

#### **Article 7**

A Secretariat shall be established for the PC, under supervision of the Technical Secretariat, which would undertake organization of the committee works preparation for its meetings, submission of transactions, drafting its resolutions and performance of any duties assigned to it by the PC. For the purpose of carrying out its duties, the said Secretariat may request information, studies and reports.

#### **Article 8**

The PC Secretariat shall prepare a minute of each meeting covering the topics that have been examined with the conclusions and recommendations of the committee thereon. The minute shall be signed by the PC chairman or his representative, the PC members and secretary.

#### **Article 9**

The Technical Secretariat shall be headed by an official at a director general level whose appointment, duties, salary and other benefits shall be determined by the PC.

#### **Article 10**

Investigation committees, for each separate case, shall be composed of a chairman and a number of investigators to be nominated by the PC. Composition of the investigation committee shall remain unchanged until final settlement of the case for which it was formed. Nomination of the committee members or appointment of the deputy member can be changed by the same legal tool.

#### **Article 11**

Investigation committees are fully independent and shall submit their reports including the investigation findings and recommendations to the PC. A member who does not support a recommendation(s) shall write down the relevant reasons in the said report.

#### **Article 12**

1. Once the complaint (application) has been accepted, the investigation committee shall take the necessary procedures to invite the

countries exporting the products subject of complaint for conducting consultations with a view to reaching solutions acceptable to both parties.

2. The investigation committee shall, during the course of investigation, give the opportunity to conduct such consultations.
3. Conducting of those consultations shall not prevent the committee from initiating and completing the investigation.

#### **Article 13**

The Technical Secretariat shall establish a secretariat for each investigation committee. Such secretariats shall undertake organization of the committee works, scheduling their tasks, writing down their reports and any other duties assigned to them by those committees.

#### **Article 14**

The duties collected under this law shall be deposited with an independent account to be at the disposal of the Permanent Committee pursuant to the rules laid down by the Ministerial Committee.

## **Section II**

### **Complaint and investigation proceedings**

#### **Article 15**

1. For a complaint to be acceptable, it has to be filed by the GCC industry or its representative, by the concerned chamber of Commerce & Industry, producers union or by any ministry in charge of the production sector in any of the GCC Member States.
2. A complaint against dumping, subsidy or an unjustifiable increase in imports shall be submitted to the Technical Secretariat in writing on the form prepared for this purpose. The complaining party shall attach with his complaint a non-confidential summary of adequate details explaining the subject matter of the submitted confidential information.
3. The complaint shall provide evidences proving the occurrence of dumping, subsidy or an unjustified increase in imports and the injuries inflicted as a result of such practices.
4. The complaint shall contain information that is reasonably available with the complaining party. The complaining party shall not be required to furnish details or information that are difficult to obtain, or that represent an unreasonable burden.
5. The PC may, in exceptional cases, order to investigate a complaint filed by a party other than those referred to in paragraph (1) above, when

there are adequate evidences proving the occurrence of dumping, subsidy or an unjustified increase in imports and subsequent injuries.

#### **Article 16**

Where a complaint against dumped or subsidized imports that have materially retarded the establishment of a GCC industry is filed, the following details or information shall be stated or attached in the complaint:

1. The benefit of this industry for the Member States and the feasibility study thereof.
2. A proof that such GCC industry has been or will be established, and the estimated time for establishing it.
3. All agreements and contracts relating to the completion or expansion of the project.
4. The loans granted or to be granted or under negotiation.
5. All evidences supporting continuation of this industry.

#### **Article 17**

The Permanent Committee shall receive the complaint and the chairman shall give his decision thereon. Such decision shall be notified to the complaining party within 7 days following the date when the complaint was tried. The decision taken shall be one of the following:

1. Accept the complaint in principle and referring it to the Technical Secretariat for registration and investigation once it is initially proven that the furnished details, information and evidences are adequate for conducting investigation pursuant to the provisions of this law and the Rules of Implementation thereof, or
2. Return the complaint due to incomplete information and details, or
3. Reject the complaint for incompetence

#### **Article 18**

The investigation committee shall, within 30 days following the date formed, examine the complaint for accuracy and adequacy of the furnished evidences, and present a preliminary report to the PC recommending to reject the complaint or to initiate investigation specifying the proposed investigation period.

#### **Article 19**

The Permanent Committee shall, within 30 days following the date of examining the preliminary report, take a decision rejecting the complaint and notify the complaining party accordingly.

#### **Article 20**

Should the Permanent Committee decide to initiate investigation, the complaint shall be supported by those domestic producers whose production output constitutes no less than 50% of the total production of the like product. However, investigation may not be initiated if the domestic producers supporting the complaint constitute less than 25% of the total domestic production of the like product. The decision taken shall be published in the official gazette of the Technical Secretariat within 10 days following the issuance of such decision. The date of notice shall be the date of initiating the investigation, provided that such notice shall include the following:

1. A thorough description of the product subject of complaint, including the technical characteristics of the product, its uses, Harmonized System heading number and the applicable rate of duties, and
2. A thorough description of the similar domestic product or the competitive products including their technical characteristics and uses thereof, and
3. Names and addresses of the complaining parties and all the local producers of the like or competitive domestic product, and
4. Country(s) of origin or export of the products subject of complaint, and
5. A summary of the information supporting the claim against dumping, subsidy or the unjustified increase in imports and the significant harm it may cause or threaten to cause or hinder establishing a GCC industry due to the claimed practices, and
6. Ground of the claims and practices subject of investigation, and
7. Address of the Technical Secretariat, names and addresses of the chairman and secretary of the investigation committee or the entity to whom replies of the interested or concerned parties shall be sent, and
8. Advise whether the committee will consider application of any procedure, duty or provisional measure, and
9. The date of initiating the investigation, and
10. The time schedule of investigation which shall include:
  - a) the time period within which the concerned parties shall notify the investigation committee in writing of their intention to participate in investigation
  - b) the time schedule and the dates of the first phase of investigation such as the date of submitting any written arguments or other documents
  - c) the time limit for the concerned parties to express their views, when so required
  - d) the time limit for requesting the hearing sessions to be held, when so required

e) the proposed dates for the application of any procedure, duty or provisional measure, if appropriate, and the identification of the serious injury or the threat thereof and any decision to apply certain procedure, duty or provisional measure

#### **Article 21**

Prior to initiating investigation of the complaints against dumping or subsidy, the Permanent Committee shall notify the concerned country(s) of the complaint that has been accepted.

#### **Article 22**

The investigation committee shall, as soon as possible, dispatch questionnaires for collecting necessary information and data to be completed by local importers and foreign producers and exporters or the governments of the exporting countries.

#### **Article 23**

The investigation committee shall, as soon as possible and through official channels, send all concerned parties and representatives of the exporting countries a copy of the non-confidential text of the complaint and, investigation proceeding notice and the questionnaires.

#### **Article 24**

Concerned parties shall provide full and clear comment and reply to the questionnaires within a period not to exceed 30 days from the date of sending such questionnaires to those parties or the authorized diplomatic representative of the concerned country. The investigation committee may, at a justified request by the said parties, extend such period for additional periods not to exceed 90 days including the original period.

#### **Article 25**

Should the number of the concerned parties or products be too great to conduct the investigation, the Permanent Committee may, as recommended by the investigation committee, limit investigation to a sample representing the concerned parties or products.

#### **Article 26**

The investigation committee shall give an equal opportunity to all concerned and interested parties to defend their interests within the specified investigation period. To this effect, the investigation committee may hold meetings to hear their views and submit their arguments, taking into consideration the times and dates convenient for the parties taking

part in these meetings. No party shall be obliged to attend such meetings and his non-attendance shall in no way prejudice his interests.

#### **Article 27**

Proceedings of the meetings shall be recorded in a minute to be signed by the parties present, the chairman and members of the investigation committee. In these meetings all parties may give oral information, however, such information shall not be authenticated unless it is given in writing later on.

#### **Article 28**

Participating parties intending to attend the hearings shall notify the investigation committee, at least 7 days prior to the date of the hearing session, of the names of their representatives and witnesses who will be attending the meetings.

#### **Article 29**

Chairman of the investigation committee shall head the hearing sessions and shall take necessary actions to maintain privacy of confidential information. When necessary, he may hold a separate hearing meeting for each party. He shall also arrange meetings in such a way to give the parties adequate opportunities to express their viewpoints.

#### **Article 30**

1. The investigation committee, with the consent of the concerned parties and at the discretion of the committee- may make field visits outside the Member States in order to obtain the required information and data.
2. The investigation committee may, at its own initiative and discretion, make field visits to the Member States in order to obtain the required information and data.

#### **Article 31**

Concerned or interested parties may request that any data or information of a confidential nature they supply be treated confidentially provided they should give reasons for such request as well as non-confidential summaries containing details that are sufficient to understand the substance of such information and data. However, in exceptional cases, a concerned party may state that such information cannot be summarized, provided that such party shall give reasons why such summarization is impossible. If the investigation committee find no justification for such

request of confidentiality and the party furnishing such information is not willing to disclose such information in a normal manner or in form of a summary, the Permanent Committee may, based on a recommendation by the investigation committee, disregard those information.

### **Article 32**

The investigation committee shall, within a period no later than 90 days from the date of initiation of investigation, prepare a detail report on its findings. Such report shall include the information, clarifications, notices and notifications given by the committee as well as the compliance with the standards, controls and stipulations provided for in the Common Law and the Rules of Implementation thereof. The committee shall permit all interested parties to have access to the report for comments. The investigation committee may, when necessary, ask the Permanent Committee to extend the period referred to in this Article provided that the extended period shall not exceed 90 days.

### **Article 33**

Investigation shall be terminated if the investigation committee finds no sufficient evidence of dumping, subsidy or unjustifiable increase in imports, or if there is no injury, threat or retardation of the establishment of an industry or casual link between both.

### **Article 34**

If the permanent committee determines to terminate investigation, such decision shall be published in the official gazette of the Technical Secretariat provided that such notice shall contain the following details in particular:

1. The identity of the party requesting investigation and the domestic products to be investigated
2. Identification of the products under investigation
3. Reasons for termination of investigation

### **Article 35**

In all cases investigation shall be terminated and a decision is to be taken within a period no later than 12 months from the date of initiation of investigation. However, the permanent committee may, in exceptional cases, extend this period for another period not to exceed 6 months.

### **Article 36**

The decision to impose definitive safeguard measures shall be published in the official gazette of the Technical Secretariat and shall come into force from the date of publishing.

### **Article 37**

Notifications to the interested parties or any other inquiry shall be sent by registered mail to be delivered to the recipient or his lawful representative. Notifications to the interested parties in foreign countries shall be sent through their diplomatic missions or their authorized consulates in the Member States.

## **Section III**

### **Anti-dumping**

#### **Chapter (I)**

#### **Calculations of dumping**

### **Article 38**

1. The investigation committee may determine the normal value of originated products or products exported from a controlled-economy country using data pertaining to another free economy country having like circumstances or any other basis it deems appropriate.
2. Determination of the export price shall not include any other exportation or freight charges applicable to the products in the exporting country.

### **Article 39**

In cases where there is no export price for the product concerned or where the export price is unreliable because of association, relationship, or compensatory agreement between the 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 on any other basis the investigation committee deems appropriate.

### **Article 40**

The normal value shall be determined according to the production cost in the country of origin plus an appropriate amount for selling, general administrative costs and a reasonable margin of profit, or according to the price at which the product is exported to a third country in the following cases:

1. where there are no sales of the concerned product in the domestic market of the exporting country, or where domestic sales are made at a loss, or

2. Where the amount of the domestic sales of the product subject of investigation accounts for less than 5% of the export sales to the Member States.

#### **Article 41**

In the cases where the investigation committee finds that the data required for determination of the export price or the normal value are insufficient, the committee may determine such price or value base on available data.

#### **Article 42**

IN determining the margin of dumping, the investigation authority shall make its calculations at the same level of trade for as nearly as possible the same period taking into consideration the differences that affect price comparability pursuant to the provisions of the relevant international agreements.

#### **Article 43**

1. The investigation committee 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. Subject to the provisions of Article (25) herein, investigation may be limited to a sample of exporters if their number is so large. In this case the margin of dumping shall be determined as follows:

- a) Exporters not included in the sample shall be subject to the individual margins calculated for them or the weighted average of these margins
- b) Cooperative exporters not included in the sample shall be subject to the weighted average of the margin of dumping calculated for those included in the sample
- c) The highest margin of dumping of the sample shall apply to the non-cooperative or unknown exporters.

#### **Article 44**

When products are not directly imported from the country of origin and are exported through another country to the importing Member, the price at which products are sold to the importing Member in the exporting country shall be usually compared with the comparable price in the exporting country. However, the price can be compared with that in the country of origin if such products were merely transported in transit via the exporting country, or if no like products are produced in the exporting

country, or if there is no comparable price for such products in the exporting country.

#### **Article 45**

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

- a) if the volume of the dumped imports from a certain country is less than 3% of the volume of imports of the subject products subject unless the countries, which individually account for 3% of the dumped imports, collectively account for more than 7% of the total imports.
- b) If the margin of dumping is less than 2% of the export price.

### **Chapter (II) Determination of injury**

#### **Article 46**

The investigation committee shall determine the material injury caused to the GCC industry and shall verify the following:

1. the increase in the volume of the dumped imports, either in absolute terms or relative to production or consumption in the Member States and their effect on the following:
  - a) reduced selling price of the dumped imports as compared with the price of the like domestic products
  - b) undercutting the selling price of the domestic like product
  - c) preventing the potential increase of the domestic price
2. The effect of the dumped imports on the economies of the GCC industry by assessing the following factors:
  - a) actual and potential decline in output sales, profits, production, market share, productivity returns on investment or utilized capacity
  - b) factors affecting domestic prices
  - c) volume of the margin of dumping
  - d) potential negative effects on cash flow, inventories, employment, investment, growth or the ability to raise capital
  - e) any other affecting factors as the investigation committee may deem adequate

#### **Article 47**

The investigation committee shall verify that the injury caused to the GCC industry is subsequent to the dumped imports and not to any other reasons.

#### **Article 48**

Subject to the provisions of Article 20 herein, the investigation committee shall, when considering complaints against dumped imports that have retarded the establishment of a GCC industry, evaluate the contents of the complaint and make recommendations thereon.

#### **Article 49**

Subject to the provisions of the previous Article, the investigation committee shall, in determining the threat of a material injury to the GCC industry, verify that such injury is clearly imminent taking the following into account:

1. significant increase of dumped imports
2. the likelihood of substantially increased dumped exports to the Member States in the light of existing contracts (prospective purchase orders)
3. whether the 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. a significant export capacity or inventories of the products under investigation at the exporters.
5. Any other affecting factors deemed to be adequate evidence by the investigation committee.

#### **Article 50**

In determining the injury subsequent to dumped imports from more than one country, the investigation committee may evaluate the collective effect of these imports if it finds that:

1. the margin of dumping established in relation to the imports from each country accounts for more than 2% of the export price
2. the volume of dumped imports from each country is 3% or more of the total volume of imports of like products by Member States
3. there is a competition among the imported products and between the imported products and the like domestic products

### **Chapter (III)**

#### **Provisional Anti-dumping Measures**

#### **Article 51**

1. The permanent committee may impose provisional anti-dumping measures. Such measures may take the form of provisional duty or cash deposit, which shall not be 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 investigation and a conclusion is reached by the investigation committee that there exists dumping, which caused material injury to GCC industry.
2. The measures referred to above shall be applied for a period not to exceed 4 months, which may be extended to two further months.
  3. If the provisional measures are less than the margin of dumping, they shall be applied for 6 months, which may be extended to 9 months.

## **Chapter (IV)**

### **Definitive anti-dumping duties**

#### **Article 52**

1. Based on a proposal by the permanent committee, The Ministerial Committee shall adopt the definitive anti-dumping duties that shall not exceed the margin of dumping.
2. Such duties shall be imposed on the dumped imports from all sources once found to cause an injury to domestic industry. However, imports from sources whose price undertakings have been accepted are to be excluded.

#### **Article 53**

Duration of application of the definitive anti-dumping duties shall not exceed five years from the date of publishing the respective final decision in the official gazette of the Technical Secretariat.

#### **Article 54**

1. In cases where products subject to definitive anti-dumping duties are exported to Member States by exporters or producers who have not exported such products during the investigation period, the investigation committee shall promptly carry out a review for the purpose of determining the 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. No anti-dumping duties shall be imposed on the exporters or producers during this review.
2. In these cases the permanent committee may require the importer to submit financial guarantees, which are equal to the amount of the definitive anti-dumping duties imposed on the other exporters from the date of initiation of such review.

## **Chapter (V)**

### **Price Undertakings**

### **Article 55**

1. The exporters may submit to the investigation committee price undertakings whereby they undertake to increase the price of their exports to the Member States with a view to eliminating the calculated margin of dumping.
2. In accepting or rejecting price undertakings, the following shall be taken into consideration:
  - a) Investigation proceedings can be suspended or eliminated if price undertakings are accepted and if the investigation committee finds these undertakings sufficient to eliminate the margin of dumping, unless exporters request that investigation be continued.
  - b) Informing the exporters in case of rejection of their price undertakings and the reasons for such rejection, if practicable.
  - c) The investigation committee may require the exporters to periodically submit information on the fulfillment of their price undertakings and to permit verification of the pertinent information.

### **Article 56**

1. Subject to the provisions of Chapter VII herein, price undertakings shall be maintained for a reasonable period of time sufficient to eliminate the margin of dumping.
2. Price undertakings shall automatically lapse if a decision was taken to terminate the investigation where there is no evidence of dumping or injury to the GCC industry.

### **Article 57**

If the investigation committee finds that the exporter violates the price undertaking, it may prepare a report on the imposition of a provisional measure using the best data available or the imposition of definitive duties. Such final duties may be imposed retroactively on the products released from the date of violating the price undertaking, but no later than 90 days before the application of the provisional measures.

### **Article 58**

Where a final determination of the injury or the threat thereof is made by the investigation committee, definitive anti-dumping duties may be imposed retroactively for the period for which the provisional measures, if any, have been applied.

### **Article 59**

If the amount of the definitive anti-dumping duty is higher than the provisional measure applied, the difference shall not be collected. If the

definitive anti-dumping duty is lower than the provisional measure, the difference shall be reimbursed.

#### **Article 60**

Where a final determination of threat of material injury or material retardation is made (but no injury has yet occurred), definitive anti-dumping duties may not be applied retroactively.

#### **Article 61**

Definitive anti-dumping duties may be levied on the on products that have entered the member States not more than 90 days prior to the date of application of provisional measures, but no later than the date of initiation of investigation, subject to the following conditions:

- a) There is a material injury caused to the GCC industry prior to the investigation period, or the importer was aware that the exporter practices such injurious dumping, and
- b) the injury is caused by massive dumped imports of a product in a relatively short time which is likely to seriously undermine the material effect of the definitive anti-dumping duty to be applied, provided that the importers concerned have been given an opportunity to comment.

### **Chapter (VII)**

#### **Review of Definitive Anti-dumping Duties**

#### **Article 62**

1. After the elapse of one year following the imposition of the definitive anti-dumping duties, the permanent committee may review the need for the continued imposition of these duties where warranted, or at a justifiable request by a concerned party. If the, as a result of the review the committee determines that the anti-dumping duty is no longer warranted, a recommendation on the immediate termination of such duties shall be submitted to the Ministerial Committee. However, if as a result of the review the committee determines the need for the imposition of these duties, a recommendation on the application of these duties for a period not to exceed five years shall be made.
2. The Permanent Committee may, at any time, carry out such review at on its initiative if necessary.

#### **Article 63**

1. The permanent committee shall carry out a review on its own initiative or upon a request by the GCC industry, six months before the

elapse of the five-year period from the date of the imposition of the definitive duties. The committee shall determine whether the expiry of the duty is likely to lead to continuation or recurrence of the dumping or injury. The duties shall remain in force pending the outcome of such

review.

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

## **Section (IV)**

### **Subsidies and Countervailing Duties**

#### **Article 64**

1. Subsidy shall be understood to include any financial benefit or other trade interest directly or indirectly conferred or to be conferred on the persons involved in the production, manufacturing or circulation of products through programs, schemes or practices provided or made by foreign governments. To be excluded from the above any amounts pertinent to internal duties or taxes imposed on the products by the government of the country of origin or the exporting country that were exempted or to reimbursed at re-exportation of such products outside the country of origin or the exporting country.
2. No anti-subsidy measures may be taken unless such subsidy is likely to confer a benefit on the recipient and is given to specific enterprises or industries which is likely to cause material injury or the threat thereof or retardation of the establishment of a GCC industry.

#### **Chapter (I)**

### **Calculations of Subsidy**

#### **Article 65**

The investigation committee shall calculate the amount of subsidy pursuant to the following rules:

1. Determination of the total subsidy amount awarded to the products under investigation during the investigation period;
2. A weighted average shall be used if the amount of subsidy varies among the exporters of the country providing subsidy;
3. To be deducted from the amount of subsidy any expenses paid to obtain such subsidy;
4. The amount of subsidy shall be calculated on a unit basis and as percentage of the value of this unit;

5. The amount of subsidy does not include:

- a) the provision of equity capital by a foreign government unless the investment decision relation to the provision of that equity can be regarded as inconsistent with the usual investment practices of private investors in 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 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 loan guarantees by a foreign government unless the amount that the recipient of the loan pays under the government guaranteed loan is less than the amount the recipient would pay under a comparable commercial loan that was not so guaranteed in which case, the amount of subsidy shall be deemed to be the difference between those two amounts;
- d) the provision of products or services by the government or the purchase of products shall not be deemed a benefit unless it is less than the overall return, or purchase was greater than required. The overall return shall be determined according to the conditions prevailing at the market of products or services under investigation in the country of supply or purchase.

The investigation committee 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 66

The investigation committee shall prepare a report to recommend the termination of investigation if the amount of the subsidy is found to be less than 1% of the value of the subsidized products; or if the imposition of a countervailing duty on the subject products is inconsistent with the obligations of the Member States under the relevant international conventions.

## **Chapter (II)** **Determination of Injury**

#### **Article 67**

The investigation committee shall verify that the injury suffered by the GCC industry is due to subsidized imports and not to other reasons.

#### **Article 68**

The investigation committee shall determine the material injury suffered by the GCC 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 the Member States. With regard to the effect of the subsidized imports on prices, the committee 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 effect of the subsidized imports on the domestic GCC 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) 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 program for agricultural products.
  - e) Any other factors the investigation committee deems to be significant.

#### **Article 69**

Subject to the provisions of the preceding Article of these Rules of Implementation, in determining the threat of injury to the GCC industry, the investigation committee shall verify that the threat of injury is clear and imminent and shall consider the following:

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

#### **Article 70**

Subject to the provisions of Article (20) of these Rules of Implementation, when considering complaints against subsidized imports that have retarded the establishment of a GCC industry, the investigation committee shall assess the subject matter of the complaint and prepare of its recommendations in this respect.

#### **Article 71**

When determining the injury caused by subsidized imports from more than one country, the investigation committee may cumulatively assess the effects of such imports if it finds the following:

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

### **Chapter (III) Provisional Measures**

#### **Article 72**

1. In critical cases where delay may cause a non-reparable injury, provisional measures may be applied which may take the form of cash deposit, which is not greater than the amount of the 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 investigation committee that there exists subsidy, which caused injury to the GCC industry, and that such measures are necessary to prevent the occurrence of injury during investigation.
2. The application of provisional measures shall be limited to a period not to exceed four months. The duties shall be reimbursed if injury or the threat thereof does not exist during this period.

### **Chapter (IV) Definitive Countervailing Measures**

#### **Article 73**

1. The permanent committee, in the light of a recommendation by the investigation committee, shall determine the amount of the definitive duties that should not exceed the amount of the subsidy calculated for each unit of the products under investigation.
2. These duties shall be imposed under a resolution by the ministerial committee on the subsidized imports from all sources if it is found that they cause injury to the GCC industry. These duties shall not be imposed

on the imports from the countries, which eliminated the subsidy under investigation, whose price undertakings were accepted.

#### **Article 74**

Definitive countervailing duties shall be imposed for a period not to exceed 5 years starting from the date of publishing the notice of imposition in the official gazette of the Secretariat.

#### **Article 75**

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

### **Chapter (V) Price Undertakings**

#### **Article 76**

Governments of the exporting countries or exporters, provided they get the approval of their respective governments, may offer to the investigation committee price undertakings to increase the price of their exports to the Member States to eliminate the amount of subsidy established by the investigation committee.

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

1. Investigation proceedings can be suspended or eliminated if price undertakings are accepted and if the investigation committee finds these undertakings sufficient to eliminate the amount of subsidy, unless exporters request that investigation be continued.
2. Informing the exporters in case of rejection of their price undertakings and the reasons for such rejection, if practicable.
3. The investigation committee may require the exporters to periodically submit information on the fulfillment of their price undertakings and to permit verification of the pertinent information.

#### **Article 77**

1. Subject to the provisions of this section, price undertakings shall be maintained for a reasonable period of time sufficient to eliminate the amount of subsidy.
2. Price undertakings shall automatically lapse if a decision was taken to terminate the investigation where there is no evidence of subsidy or injury to the GCC industry.

#### **Article 78**

If the investigation committee finds that the exporter violates the price undertaking, it may prepare a report on the imposition of a provisional measure using the best data available or the imposition of definitive duties. Such final duties may be imposed retroactively on the products released from the date of violating the price undertaking, but no sooner than 90 days before the application of the provisional measures.

### **Chapter (VI) Retroactivity**

#### **Article 79**

Where a final determination of injury threat or threat thereof is made, the permanent committee may propose to impose definitive countervailing duties retroactively for the period for which provisional measures have been applied.

#### **Article 80**

Where the amount of the definitive countervailing duty is higher than the provisional measure applied, the difference shall not be collected. If the definitive countervailing duty is lower than the provisional measure, the difference shall be reimbursed.

#### **Article 81**

Where a final determination of threat of material injury or material retardation is made (but no injury has yet occurred), definitive countervailing duties may not be applied retroactively.

#### **Article 82**

The Ministerial Committee may levy definitive countervailing duties on the on products that have entered the Member States not more than 90 days prior to the date of application of provisional measures, but no later than the date of initiation of investigation, subject to the following conditions:

1. There is a material injury to the GCC industry caused by large quantities of imports, in a relatively short time, of a product benefiting from subsidies bestowed inconsistently with the provisions of the relevant international agreements,  
and
2. Definitive countervailing duties shall be imposed retroactively to prevent recurrence of the injury.

## **Chapter (VII)**

### **Review of Definitive Anti-dumping Duties**

#### **Article 83**

1. After the elapse of one year following the imposition of the definitive anti-dumping duties, the permanent committee may review the need for the continued imposition of these duties where warranted, or at a justifiable request by a concerned party.
2. If the, as a result of the review the committee determines that the anti-dumping duty is no longer warranted; a recommendation on the immediate termination of such duties shall be submitted to the Ministerial Committee.
3. However, if as a result of the review the committee determines the need for the imposition of these duties, a recommendation on the application of these duties for a period not to exceed five years shall be made.
4. The Permanent Committee may, at any time, make such review on its initiative if necessary.

#### **Article 84**

1. The permanent committee shall carry out a review on its own initiative or upon a request by the GCC industry, six months before the elapse of the five-year period from the date of the imposition of the definitive duties. The committee shall determine whether the expiry of the duty is likely to lead to continuation or recurrence of the subsidy or injury. The duties shall remain in force pending the outcome of such review.
2. Any such review shall be concluded within 12 months from the date of initiation of the review.

**Section (V)**  
**Safeguard Measures Against the Unjustifiable  
Increase in Imports**

**Chapter (I)**  
**Determination of Serious Injury or the Threat thereof**

**Article (85)**

The investigation committee shall determine the serious injury caused to the GCC industry on the basis of facts and the existence of a casual link between the increased imports of the product concerned and the serious injury or threat thereof. The investigation committee shall verify the following:

1. An increase in imports of the product under investigation either absolute or relative to production in the Member States.
2. The impact of increased imports on the situation of the domestic GCC industry, including production, productivity, utilization of capacity, profits and losses, employment and market share.

**Chapter (II)**  
**Provisional Safeguard Measures**

**Article (86)**

Provisional Safeguard Measures against unjustifiable increase in imports may be imposed if the investigation committee finds a clear evidence that increased imports have caused or are threatening to cause serious injury that can not be easily remedied or would be difficult to remedy should the imposition of these measures be delayed.

**Article (87)**

Provisional Safeguard Measures shall take the form of tariff