



# **The Executive Regulation of The Law of Trade Remedies in International Trade**

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# **The Executive Regulation of the Law of Trade Remedies in International Trade**

## **CHAPTER I - GENERAL PROVISIONS**

### **Article One:**

The meanings of the terms and expressions mentioned in Article 1 of the Law of Trade Remedies in International Trade, hereinafter referred to as the “Law”, shall apply to the Executive Regulation of the Law, hereinafter referred to as “the Regulation”. The following terms and expressions shall have the following meanings wherever stated in the Regulation, unless the context requires otherwise:

- **Product Subject to Complaint:** A product that is destined to the Kingdom, which the domestic industry alleges, is being imported at dumped prices, or receiving specific subsidy or being imported in increased quantities.
- **Complaint Request:** Lodged by the domestic industry or its representative on the templates prepared by the Department for the purpose of requesting the registration of the complaint and the examination of the possibility of initiation of the investigation.
- **Complaint:** The accepted complaint request by the Department and registered in the complaints record.
- **Relation/Related:** Whenever stated in describing the relationship between parties, it means that a party directly or indirectly controls the other party; or both parties are directly or indirectly controlled by a third party; or both parties together directly or indirectly control a third party. The status of control is deemed to exist, when a party has legal or operational power to exercise restraint or direction over the other party.
- **Questionnaires:** Templates of questions prepared by the Department to be available to the interested parties based on the type of each interested party involved in the investigation or the review, and based on the type of the investigation or the review.

The interested parties provide the responses and the necessary information by using these templates for conducting the investigation or the review.

- **Public File:** The file that is available to the interested parties, which contains the non-confidential information, the non-confidential summaries of the confidential information presented by the interested parties in the investigation or the review, and the non-confidential information and reports used or issued by the Authority in concluding its findings.

- **Complainant Industry/Complainant:** The domestic industry, its representative, or part thereof that represents the domestic industry in the complaint in accordance to the representation requirements provided in paragraph 1 of Article 4 of the Regulation.

- **Preliminary or Final Findings:** Facts, findings and recommendations concluded by the Department, based on the examination and verification of the information obtained or used during the investigation or the review, all of which are to be provided in the preliminary or final report approved by the Governor.

- **Newly Established Domestic Industry:** An industry producing a new product that was not produced in the Kingdom or was not produced in a commercially stable manner.

- **New Product:** Entirely new product in the Kingdom, or a product that is significantly developed or entirely transformed as to be substantially distinguished from the existing product in the Kingdom.

## **Article Two:**

The Regulation aims to define and regulate the provisions necessary for the Authority to perform its duties and responsibilities in terms of, lodging complaints requests, lodging requests for reviews, conducting investigations and reviews, and other provisions as referred to by the Law issued by the Royal Decree no. M/60 on 29/4/1444 H. In addition, the Regulation governs the relevant provisions of trade remedies set forth in the Anti-Dumping Agreement, the Agreement on Subsidies and Countervailing Measures and the Agreement on Safeguards approved by the Royal Decree No. M/54 dated 21/9/1426 H regarding the accession of the Kingdom to the WTO.

## **CHAPTER II - THE COMPLAINT**

### **Article Three:**

1. Except as provided in Article 7 of the Regulation, anti-dumping, countervailing or safeguard investigations shall not be initiated unless upon the receipt of a complaint by the Department.
2. Upon the submission of a complaint request in accordance with Articles 4 and 5 of the Regulation, the Department shall immediately register the complaint in the complaints' record with a specific number. The Department shall issue a decision on the documentary acceptance of the complaint request and notify the complainant industry of its decision.

### **Article Four:**

1. A properly documented complaint request shall not be accepted from the complainant industry unless such complaint request is submitted by or on behalf of the domestic industry. For the purposes of accepting the complaint request and initiating the investigation, the Department shall determine, on the basis of an examination, the degree of support for or opposition to the complaint expressed by domestic producers to the Department. The complaint shall be considered to have been made by or on behalf of the domestic industry, if it is supported by those domestic producers whose collective output constitutes more than 50 per cent of the total production of the like product produced by that portion of the domestic industry expressing to the Department either support for or opposition to the complaint. However, no investigation shall be initiated when domestic producers expressly supporting the complaint account for less than 25 per cent of total production of the like product produced in the Kingdom. In safeguard investigations, the Department may not adhere to the portion of representation of the domestic industry provided in this paragraph for the purposes of accepting the complaint request and initiating the investigation.
2. The complainant industry shall submit to the Authority an authenticated document in accordance with the laws and regulations applied in the Kingdom to assign therein

its representative or those acting on its behalf in submitting the complaint request and during the course of investigation. Through this document, the complainant industry shall grant authorization of powers to its representatives or to those acting on its behalf to submit and receive confidential and non-confidential information from the Authority, and to represent the complainant industry in receiving all notices and notifications, and in any other procedures and requirements regarding the acceptance of the complaint and the investigation.

3. The complainant industry shall submit to the Authority an authenticated letter in accordance with the laws and regulations applied in the Kingdom, in which the complainant industry and its representatives or those acting on its behalf undertake the responsibility of the accuracy of the information provided to the Authority throughout the complaint and the investigation. They shall undertake that the information provided in the complaint request and during the course of investigation is accurate and adequate information as is properly available thereto. Additionally, they shall undertake that, according to their knowledge, such information shall never include incorrect information intended to prejudice the interests of any other party in the complaint or the investigation and to acknowledge the penal consequences of violating this undertaking according to the relevant Laws of the Kingdom. The complainant industry and its representatives shall undertake to allow the Authority to maintain the information submitted in the complaint and during the course of investigation for a period that the Authority deems appropriate which shall not be less than the period of the imposition of the measures. Such information shall include that submitted in soft and hard copies, confidential and non-confidential information, and originals and non-originals.
4. For the purposes of accepting a complaint request and initiating the anti-dumping or countervailing measures investigations, and in order to determine the domestic industry, the Department may exclude the producers of the like product that are proven to be related to the exporters or importers of the product subject to the complaint or under investigation or are themselves importers of the product subject to the complaint or under investigation, provided that, there are grounds for



believing or suspecting that the effect of the relationship is such as to cause the related domestic producer concerned to behave differently from unrelated domestic producers.

## **Article Five:**

1. For the purposes of accepting a properly documented complaint request, the complaint request shall include evidence of dumping or specific subsidy, and evidence of injury and a causal link. As for safeguard measures, a complaint request shall include evidence of increase in imports, serious injury or threat thereof and evidence of causal link thereof.
2. The complaint request shall contain all information requested by the Department as is reasonably available to the complainant, including the following information:
  - a. The identity of the complainant and a description of the volume and value of the domestic production of the like product by the complainant as part of the whole production of the Kingdom, including a list of all participating domestic producers in the complaint request and the volume and value of the production accounted for by each producer. The complaint shall contain, to the extent possible, a list of other known domestic producers of the like product in the Kingdom and a description of the volume and value of domestic production accounted for by each producer of the like product.
  - b. A complete description of the allegedly dumped product subject to the complaint, or the product receiving a specific subsidy or the product being imported in increased quantities.
  - c. The complaint request for anti-dumping and countervailing measures shall include the names of the countries/country of origin or export of the product subject to the complaint to the Kingdom, and the volume and value of the imports of each country of the product in question to the Kingdom. The complainant shall provide a list of known exporters or foreign producers, and a list of known importers of the product subject to the complaint. The complaint for safeguard measures shall include a detailed list of imports of the product in question.

- d. In the complaint request for anti-dumping measures, the complainant shall include information on prices at which the product subject to the complaint is sold when destined for consumption in the domestic markets of the country or the countries of origin or export, or available information on the prices at which the product in question is sold from the country or countries of origin or export to a third country or countries, or information on the constructed value of the product subject to the complaint in the domestic market of the country or countries of origin or export. The complainant shall provide export prices of such country or countries of the product in question to the Kingdom. Where appropriate, the complainant shall provide prices at which the product is sold to the first independent buyer in the Kingdom. As for the complaint for countervailing measures, the complainant shall include evidence on the existence, nature and amount of subsidy in the country or countries of origin or export.
  - e. The complainant shall provide information on the development of the volume of imports of the product subject to the complaint, the effect of these imports on prices of the like product in the domestic market of the Kingdom, and its effect on the domestic industry as demonstrated by relevant factors and indices having a bearing on the state of domestic industry, such as those listed in Chapters VII and VIII of the Regulation depending on the nature of the complaint.
3. If the complaint request contains confidential information, the complainant shall provide a confidential and non-confidential version of the complaint request pursuant to Chapter IV of the Regulation.

### **Article Six:**

1. Within a period not exceeding 45 days from the date of accepting and registering the complaint request, the Department shall examine the accuracy and adequacy of the evidence provided in the complaint, to determine whether there is sufficient evidence to justify the initiation of an investigation and the Department shall take a decision about the complaint on that basis.

2. The Department shall examine the evidence provided in the complaint on the existence of dumping or specific subsidy and injury simultaneously to determine a recommendation of initiation of an investigation or rejection of the complaint.
3. The Department shall, upon concluding the existence of sufficient evidence justifying the initiation of investigation, submit a report to the Governor, recommending the initiation of an investigation.
4. The Authority shall notify the governments of the countries concerned with the receipt of a properly documented complaint, following the acceptance by the Department of the anti-dumping or countervailing measures complaint and registration thereof and prior to the decision of the Governor to initiate the investigation.
5. In countervailing measures investigations, the Authority shall, pursuant to the notification aforementioned in paragraph 4 of this Article, invite governments of countries concerned for consultations with the aim of clarifying the allegations mentioned in the complaint in an attempt to arrive at a mutually acceptable solution for parties participating in the consultations. The Authority shall provide timely opportunities for governments of countries concerned to conduct consultations and have access to non-confidential information related to the allegations, whether prior to taking the decision of initiating the investigation or during the course of investigation, or prior to taking preliminary or final determinations, with the aim to arrive at a mutually acceptable solution. The availability of consultations is not intended to prevent the Authority from proceeding expeditiously with regard to initiating the investigation, reaching preliminary or final determinations or applying provisional or final measures, in accordance with the provisions of the Law and the Regulation.
6. When concluding the absence of sufficient evidence to justify the initiation of the investigation, the Department shall issue a reasoned decision of rejection of the complaint, and shall cancel the complaint from the records. The Department shall notify the complainant with its reasoned decision of rejection.

7. The complaint shall be rejected or the investigation shall be terminated for an exporting country when its volume of actual or potential dumped imports destined to the Kingdom or imports receiving specific subsidy of the product subject to the complaint accounts for less than 3 per cent of total imports into the Kingdom of such product, unless the total percentage of exporting countries concerned - which individually account for less than 3 per cent of the imports - collectively account for more than 7 per cent of total imports into the Kingdom of such product. The complaint shall be rejected or the investigation shall be terminated for an exporting country when the margin of dumping is less than 2 per cent or the amount of subsidy is less than 1 per cent *ad valorem*, or when the amount of injury from such country is negligible.
8. The Authority shall avoid, unless a decision has been made by the Governor to initiate an investigation, any public notice of receiving a complaint.
9. The complainant or its representative may withdraw a complaint request prior to the decision of the initiation of an investigation. The domestic industry or its representative may request the termination of the investigation prior to the approval of the Governor of the final findings of the investigation. In such cases, the complaint may, upon a decision by the Governor, be withdrawn and cancelled from the Department records or the investigation may be terminated. In case where provisional measures were imposed, the Chairperson shall issue the decision of termination.

### **Article Seven:**

In special circumstances, the Department may raise recommendations to the Governor to initiate an investigation without having received a written complaint request from a domestic industry, provided that the Department has sufficient evidence of the existence of dumping or specific subsidy, and has evidence on the existence of injury and a causal link, or evidence on the existence of increase in imports, serious injury or threat thereof and evidence of causal link thereof in accordance with the provisions of Article 5 of the Regulation to justify the initiation of an investigation.

## **CHAPTER III - PROCEDURES OF ANTI-DUMPING, COUNTERVAILING MEASURES & SAFEGUARD INVESTIGATIONS**

### **Article Eight:**

1. Within a period not exceeding 15 days from the date of the recommendation made by the Department to initiate investigation, the Governor shall make a decision concerning the initiation of an investigation. In case the Governor decides not to initiate the investigation, the complainant industry shall be notified with a reasoned decision of the Governor.
2. In case the Governor decides to initiate an investigation pursuant to paragraphs 3 and 4 of Article 16 of the Law, the Authority shall publish a public notice in the Official Gazette. The Authority shall, in anti-dumping and countervailing measures investigations, notify the governments of the countries concerned exporting the product in question as well as interested parties known to the Authority, of the initiation of investigation. In safeguard measures investigations, the Authority shall notify the WTO Committee on Safeguards of the initiation of investigation in accordance with Article 54 of the Regulation. The public notice and the notification shall include the following information, or the Authority shall make such information available in a separate report:
  - a. name of the exporting country/countries involved in anti-dumping and countervailing measures investigations as well as the identity of the product under investigation;
  - b. date of initiation of the investigation and determination of the period of investigation;
  - c. basis provided by the complainant about the allegation of the existence of dumping or specific subsidy or existence of increase in imports.
  - d. a summary of the factors on which the allegation of injury or serious injury or threat thereof is based;

- e. contact information of the Authority so as to enable interested parties and public interest persons to communicate with the Authority;
  - f. information on how interested parties may receive questionnaires;
  - g. conditions and time-limits allowed to interested parties for making themselves known as interested parties, to provide views and information in writing, and to provide written responses to questionnaires;
  - h. time-limits granted to interested parties to register in a public hearing;
  - i. conditions and time-limits allowed to public interest persons for making themselves known as public interest persons and to provide views and information thereof in writing.
3. Upon initiation of anti-dumping and countervailing measures investigations, the Authority shall make available the full text of the non-confidential version of the registered complaint to the governments of the concerned exporting countries and to the concerned exporters and producers known to the Authority. The Authority shall, upon request, provide a non-confidential version to other interested parties. Where the number of the concerned exporters and producers involved is particularly high, the Authority may provide the non-confidential version of the registered complaint to the governments of the exporting countries or to the relevant trade associations of exporters and producers. In safeguard measures investigations, the Authority may provide the full text of the non-confidential version of the complaint or make available a non-confidential report containing substantial information on which the determination of initiation of the investigation was based, allowing interested parties to defend their interest.
4. Upon initiation of an investigation without receipt of a complaint in accordance with Article 7 of the Regulation, the Authority shall provide in the public notice or in the notification information and justifications justifying the initiation of investigation, or shall make such information available in a separate report in accordance with paragraph 2 of this Article.
5. The Authority shall grant interested parties an opportunity to make comments and express views on the complaint and the notice of initiation of investigation within

the time limits allowed in accordance with paragraph 3 of Article 9 of the Regulation.

## **Article Nine:**

1. The Authority shall grant interested parties a period of 15 days as of the date of the notice of initiation of investigation to register themselves as interested parties based on the requirements specified by the Authority in the public notice.
2. The Authority shall make questionnaires available to interested parties. The Authority, shall specify, in the questionnaires or in public notices the technical requirements for information and documents provided by interested parties to the Department.
3. The Authority shall grant interested parties at least a period of 37 days to respond to questionnaires from the date of sending to interested parties, from the date of sending to governments of concerned countries, or from the date of making questionnaires available. Upon a reasoned written request submitted by interested parties to the Department, the Department may, at its discretion and if applicable, accept the extension of such period by virtue of a written approval for a period not exceeding 10 days. The Department shall receive the request for extension from the interested parties prior to the lapse of the last 5 days of the original period. The Department may, at its discretion, and whenever necessary, grant extensions exceeding the original periods, provided that such extension are granted to all interested parties in the investigation.
4. Subject to the requirements on the protection of confidential information, the Department shall maintain in the public file the evidence, views, and responses submitted by any interested party and shall make such information available to other interested parties. The Department shall grant interested parties at least 3 days to comment on the evidence, views and responses as of the date of their availability in the public file.
5. The Department shall whenever practicable provide timely opportunities to interested parties, upon written request, to have access to non-confidential information in the public file during the course of investigation.

6. The Department shall provide full opportunity to interested parties to defend their interests and submit their views. In safeguard measures investigations, the Department shall provide full opportunity to interested parties to submit views as to whether or not the application of a safeguard measure would be in the public interest.
7. The Department shall allow interested parties, who filed written request within the specified period set by the Authority for hearing registration, to participate in the hearing, or to make any other appropriate arrangements with the aim to presenting views and arguments to other interested parties, to discuss conflicting views subject to the requirements of the protection of the confidential information. The Department shall not take into consideration any oral information submitted during the hearing, unless the interested party submits the information in writing, within a period not exceeding 7 days as of the date of the hearing. The interested party shall submit non-confidential and confidential information versions, in the event such information contains confidential information. The Department shall make this information available to other interested parties in the public file in accordance with paragraph 4 of this Article.
8. An interested party shall submit to the Authority an authenticated document in accordance with the laws and regulations applied in the Kingdom, to assign therein its representatives or those acting on its behalf during the course of investigation. Through this document, an interested party shall grant authorization of powers to its representatives or to those acting on its behalf to submit and receive confidential and non-confidential information from the Authority, and to represent the interested party in receiving notices, notifications and any other procedures and requirements of the investigation.
9. An interested party shall submit to the Authority an authenticated letter in accordance with the laws and regulations applied in the Kingdom, in which the interested party and its representatives or those acting on its behalf undertake the responsibility for the accuracy of the information provided during the course of investigation. They shall undertake that the information provided is accurate and adequate information as is properly available to them. Additionally, they shall undertake that, according to their knowledge, such information shall never include



incorrect information intended to prejudice the interests of any other party and acknowledge the penal consequences of violating this undertaking according to the relevant laws and regulations of the Kingdom. The interested party and its representatives shall undertake to allow the Authority to maintain the information submitted during the course of investigation for the period that the Authority deems appropriate which shall not be less than the period of the imposition of measures. Such information shall include that submitted in soft and hard copies, confidential and non-confidential information, and originals or non-originals.

### **Article Ten:**

1. During the course of the investigation, the Department shall examine evidence of the existence of dumping or specific subsidy and injury simultaneously to conclude thereon.
2. Except as provided in the provisions of paragraph 7 of this Article, the Department shall verify the accuracy and adequacy of information submitted by interested parties that the Authority used to conclude determinations.
3. In anti-dumping and countervailing measures investigations and upon the imposition of provisional measures in accordance with paragraph 1 of Article 9 of the Law, the Authority shall notify the interested parties of preliminary determinations of investigation or make available such determinations. The Authority shall grant interested parties a timely period of not less than 7 days as of date of availability to comment thereon. Upon the imposition of provisional safeguard measures in accordance with paragraph 2 of Article 9 of the Law, the Authority shall notify the WTO Committee on Safeguards pursuant to Article 56 of the Regulation, specifying therein the period provided to interested parties to comment.
4. For the purpose of verifying information or obtaining further details, the Department may carry out on-the-spot verification visits either in the Kingdom or in countries of interested parties or other countries, in accordance with the provisions of Chapter XV of the Regulation. The Department shall make conclusions on the verification visit available to the interested party pursuant to Paragraph 5 of this Article and subject to the requirements of the protection of confidential information

5. In anti-dumping and countervailing measures investigations, the Department shall notify interested parties of the essential facts the Authority relies on in concluding definitive determinations. The Department shall provide interested parties a timely period of not less than 7 days to comment thereon with the aim of defending their interests. Consequently, the Department shall prepare definitive conclusions and recommendations. When the Governor approves the definitive conclusions and recommendations, the Governor shall raise such information to the Chairperson to make a final decision. In safeguard measures investigations, the Authority shall notify the WTO Committee on Safeguards on the definitive conclusions and recommendations approved by the Governor to impose safeguard measures by virtue of paragraph 2 of Article 54 of the Regulation, specifying therein the period to comment provided to interested parties. Consequently, the Governor shall raise the definitive conclusions and recommendations to the Chairperson. The Authority shall notify the WTO Committee on Safeguards of the decision of the Chairperson pursuant to paragraph 1 of Article 54 of the Regulation.
6. Pursuant to paragraphs 2 and 3 of Article 16 of the Law, the Authority shall publish the decisions issued by the Governor or the Chairperson within a period not exceeding 5 days as from the date of issuance.
7. In cases in which any interested party refuses to or delays the provision of the necessary information, refuses to allow the Department to verify such information, or the government of an interested party refuses to allow the Department to verify such information, within a reasonable period of time or significantly impedes the investigation; the Authority may issue preliminary or final affirmative or negative findings on the basis of the information available, in accordance with the requirements provided for in Chapter XIV of the Regulation.

## **Article Eleven:**

The procedures set out in this Chapter are not intended to prevent the Authority from proceeding with regard to initiating an investigation, reaching preliminary or final determinations, whether affirmative or negative, or from applying provisional or final measures within the time limits specified in the Law, as long as the conclusions reached

by the Authority are in accordance with the relevant provisions of the Law and the Regulation.

## **CHAPTER IV - TREATMENT OF CONFIDENTIAL INFORMATION**

### **Article Twelve:**

1. Pursuant to Chapter IX of the Law, the Authority shall consider information submitted as confidential, if provided accompanied with a written request specifying the confidential information therein, or denoting such information with a clear marking identifying confidential information in the following cases:
  - a. The information is by nature confidential, for example; because its disclosure would be of significant competitive advantage to a competitor; or because disclosure would have a significantly adverse effect upon a person supplying the information or upon a person from whom that person acquired the information.
  - b. The information is provided on a confidential basis, upon written good cause shown, justifying treating such information as confidential.
2. In all events, parties providing confidential information shall provide written reasons justifying the treatment of such information as confidential, as well as identify reasons for confidentiality for each relevant group of information claimed to be confidential, and furnish non-confidential summaries thereof. These summaries shall be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. In exceptional circumstances, such parties may indicate that such information is not susceptible of summary, and may not provide a summary, but a statement of the reasons why summarization is not possible must be provided.
3. The Authority may disregard confidential information during the course of an investigation and may not rely on it, if the Authority finds that a request for confidentiality is not warranted, or if it not convinced with the justifications of not providing a summary of the confidential information in sufficient detail to permit a reasonable understanding of the substance thereof, provided that, the supplier of the

information refuses the use by the Authority of such information in public, or refuses to authorize in writing the Authority to disclose such information in generalized or summary form. The Authority, nevertheless, may rely on such information in the investigation if it can be demonstrated to its satisfaction from appropriate sources that the information is correct and reliable.

## **CHAPTER V - DETERMINATION OF DUMPING**

### **Article Thirteen:**

1. A product is to be considered as being dumped, if the export price of the product exported to the Kingdom is less than the normal value for the like product, in the ordinary course of trade, when destined for consumption in the exporting country.
2. The exporting country is normally the country of origin. The exporting country may be an intermediate country to the country of origin exporting the product under investigation to the Kingdom. For the determination of dumping, prices of the like product in the exporting country shall be used. However, the price of the like product in the country of origin shall be used if, for example, the product under investigation is merely transshipped through the country of export, or such products are not produced in the country of export, or there is no comparable price for the product under investigation in the country of export.

### **Article Fourteen:**

1. The normal value shall normally be determined on the basis of the price paid or payable in the ordinary course of trade for the like product in the exporting country. The determination of the normal value normally relies on sales of the like product destined for consumption in the exporting country.
2. In the determination of the normal value, the Department may not rely on prices between related parties, or if there are compensatory arrangements between parties. Such prices shall be considered not in the ordinary course of trade unless the parties establish that being related has no effect on prices.

3. When there are no sales of the like product in the ordinary course of trade in the domestic market of the exporting country, or when such sales do not permit a proper comparison because of the particular market situation or because of an insufficient volume of the sales in the domestic market of the exporting country, the normal value of the like product shall be determined on the basis of cost of production in the country of origin plus a reasonable amounts or margins for profits, general, administrative and selling costs, or it shall be determined on the basis of export price of the like product in the ordinary course of trade when exported to an appropriate third country, provided that such price is representative.
4. For the purpose of paragraph 3 of this Article, sales shall normally be considered of a sufficient quantity if such sales constitute 5 per cent or more of the total sales of the product under investigation destined for the Kingdom. The Department may rely on a lower ratio where the evidence demonstrates that domestic sales at such lower ratio are nonetheless of sufficient magnitude to provide for a proper comparison.
5. Sales of the like product in the domestic market of the exporting country or export sales of the like product to a third country may be treated as not being in the ordinary course of trade by reason of price, if such sales are made at prices below per unit (fixed and variable) costs of production plus administrative, selling and general costs. Such sales may be disregarded in determining normal value, provided that such sales are made within an extended period of time in substantial quantities and are at prices which do not provide for the recovery of all costs within a reasonable period of time.

Prices of such sales shall be considered to provide for recovery of all costs within a reasonable period of time, if such prices which are below per-unit cost at the time of sale are above weighted average per unit costs for the period of investigation.

Sales below per-unit cost shall be considered as being made within an extended period of time when they occur within a period of one year and in no case less than 6 months. Such sales shall be considered as being made in substantial quantities during such period when the weighted average selling price for sales used to

determine normal value is below the weighted average per-unit cost, or that the volume of sales below per-unit cost represents not less than 20 per cent of the sales used for the determination of the normal value.

6. For the purpose of paragraph 3 of this Article, costs shall normally be calculated on the basis of records kept by the exporter or producer under investigation, provided that such records are in accordance with the generally accepted accounting principles of the producing or exporting country, and provided that such information reasonably reflects the costs associated with the production and sale of the product under investigation.

The Department shall consider all available evidence on the proper allocation of costs, including that which is made available by the producer or exporter in the course of the investigation, provided that such allocations have been historically utilized by the exporter or producer, in particular in relation to establishing appropriate amortization and depreciation periods and allowances for capital expenditures and other development costs. If cost allocations have not been already reflected in the information as specified under this paragraph, costs shall be adjusted appropriately for those non-recurring items of cost, which benefit future and/or current production, or for circumstances in which costs during the period of investigation are affected by start-up operations. The adjustment made for start-up operations shall reflect the costs at the end of the start-up period or, if that period extends beyond the period of investigation, the most recent costs which can be taken into account by the Department during the period of the investigation.

7. For the purpose of paragraph 3 of this Article, the amounts for general, administrative, and selling costs and profits shall be based on actual data pertaining to production and sales in the ordinary course of trade of the like product by the producer or exporter under investigation. When such amounts or margins cannot be determined on this basis, the amounts and margins may be determined on the basis of:

- a. the actual amounts or margins incurred and realized by the producer or exporter in question in respect of production and sales in the domestic market of the country of origin of the same general category of products;
- b. the weighted average of the actual amounts or margins incurred and realized by other exporters or producers under investigation in respect of production and sales of the like product in the domestic market of the country of origin;
- c. any other reasonable method, provided that the amount or margin for profit so established shall not exceed the profit normally realized by other exporters or producers on sales of products of the same general category in the domestic market of the country of origin.

### **Article Fifteen:**

1. The export price shall normally be determined on the basis of the price actually paid or payable for the product under investigation when exported to the Kingdom.
2. In case where there is no export price or where it appears to the Department that the export price is unreliable because of association or a compensatory arrangement between the exporter and the importer or a third party, the export price may be constructed on the basis of the price at which the imported products are first resold to an independent buyer, or if the imported products are not resold to an independent buyer, or not resold in the condition as imported, on such reasonable basis as the Department may determine.

### **Article Sixteen:**

1. The Department shall make a fair comparison between the export price and the normal value. This comparison shall be made at the same level of trade, normally at the ex-factory level, and in respect of sales made at as nearly as possible the same time. Due allowance shall be made in each case, on its merits, for differences which affect price comparability, including differences in conditions and terms of sale, taxation, levels of trade, quantities, physical characteristics, and any other differences which are also demonstrated to affect price comparability, taking into account not to duplicate adjustments that have been already made under this paragraph.

For purposes of paragraph 2 of Article 15 of the Regulation, allowances for costs, including duties and taxes, incurred between importation and resale, and for profits accruing, should also be made. If in these cases price comparability has been affected, the Department shall establish the normal value at a level of trade equivalent to the level of trade of the constructed export price, or shall make due allowance as warranted under this paragraph.

The Department shall indicate to the interested parties what information is necessary to ensure a fair comparison and shall not impose an unreasonable burden of proof on those parties.

2. When fair comparison requires a conversion of currencies, such conversion should be made using the rate of exchange on the date of sale. Normally, the date of sale would be the date of contract, purchase order, order confirmation, or invoice date, or whichever establishes the material terms of sale. When a sale of foreign currency on forward markets is directly linked to the export sale involved, the rate of exchange in the forward sale shall be used. Fluctuations in exchange rates shall be ignored and in an investigation the Department shall allow exporters at least 60 days to have adjusted their export prices to reflect sustained movements in exchange rates during the period of investigation.

## **Article Seventeen:**

Subject to the provisions governing fair comparison in Article 16 of the Regulation, the existence of margins of dumping during the period of investigation shall normally be established on the basis of a comparison of a weighted average normal value with a weighted average of export prices of all comparable export transactions or by a comparison of normal value and export prices on a transaction-to-transaction basis. A normal value established on a weighted average basis may be compared to prices of individual export transactions if the Department finds a pattern of export prices which differ significantly among different purchasers, regions or time periods, and if an explanation is provided as to why such differences cannot be taken into account



appropriately by the use of a weighted average-to-weighted average or transaction-to-transaction comparison.

## **CHAPTER VI – DETERMINATION OF THE AMOUNT OF THE SPECIFIC SUBSIDY**

### **Article Eighteen:**

1. The amount of specific subsidy shall be determined by calculating the value of the benefit conferred to the recipient during the period of investigation.
2. The amount of specific subsidy shall be determined for each unit of the product under investigation destined to the Kingdom. Upon calculation of the amount of specific subsidy, the following elements may be deducted from the total amount of the specific subsidy:
  - a. expenses associated with applying to, or obtaining, the specific subsidy;
  - b. taxes, duties, or any other expenses associated with the export of the product under investigation that counteracts subsidy or removes the effect thereof;
  - c. deductions claimed by the interested party provided that sufficient evidence be provided of the necessity of their deduction.
3. For the purpose of calculating the amount of specific subsidy for each unit of the product under investigation during the period of investigation, if the specific subsidy is linked to the quantities of export sales, sales, production quantities, or transported quantities, the basis for allocation of the amount of benefit is determined based on the quantities linked to it. If the specific subsidy is not linked to those quantities, the basis for the allocation of the amount of benefit is determined based on an appropriate basis according to each case.
4. If the specific subsidy is linked to the current or future acquisition of fixed assets, the amount of benefit shall be calculated by spreading the subsidy across a depreciation period appropriate for this asset, according to the nature of the concerned industry. Due consideration shall be taken of the calculation of the remaining amount of the subsidy from the value of the asset that was acquired prior

to the period of investigation and the impact of the value thereof extended during the period of investigation in accordance with approved depreciation rates. Thereupon, the benefit shall be determined and evaluated during the period of investigation and the amount of specific subsidy of the product under investigation shall be determined in accordance with paragraph 2 of this Article. When the asset is not subject to depreciation allocation, the amount of benefit shall be determined and evaluated as an interest-free loan and shall be handled in accordance with subparagraph (b) of Article 19 of the Regulation or based on any other appropriate basis.

5. When the specific subsidy is not linked to a fixed asset, the amount of the specific subsidy shall be determined based on the benefit conferred during the period of investigation, except in cases where justifications are available to justify the allocation over different periods. Thereupon, the benefit shall be determined and evaluated during the period of investigation and the amount of specific subsidy of the product under investigation shall be determined in accordance with paragraph 2 of this Article.

## **Article Nineteen:**

The following rules shall be applied in calculating the amount of benefit conferred to the recipient of the specific subsidy:

- a. government provision of equity capital shall not be considered as conferring a benefit, unless the investment decision can be regarded as inconsistent with the usual investment practice of private investors in the territory of the producing or exporting country, including for the provision of risk capital;
- b. a loan by a government shall not be considered as conferring a benefit, unless there is a difference between the amount that the firm receiving the loan pays on the government loan and the amount the firm would pay on a comparable commercial loan which the firm could actually obtain on the market. In this case, the benefit shall be the difference between these two amounts;
- c. a loan guarantee by a government shall not be considered as conferring a benefit, unless there is a difference between the amount that the firm receiving the

guarantee pays on a loan guaranteed by the government and the amount that the firm would pay on a comparable commercial loan absent the government guarantee. In this case, the benefit shall be the difference between these two amounts adjusted for any difference in fees;

- d. the provision of goods or services or purchase of goods by a government shall not be considered as conferring a benefit unless the provision is made for less than adequate remuneration, or the purchase is made for more than adequate remuneration. The adequacy of remuneration shall be determined in relation to prevailing market conditions for the goods or services in question in the country of provision or purchase including price, quality, availability, marketability, transportation and other conditions of purchase or sale.

## **CHAPTER VII –DETERMINATION OF INJURY**

### **Article Twenty:**

1. A determination of injury shall be based on positive evidence and involve an objective examination of both:
  - a. the volume of dumped or subsidized imports and the effect thereof on prices of the like products in the Kingdom;
  - b. the consequent impact of these dumped or subsidized imports on the domestic industry.
2. With regard to the volume of dumped or subsidized imports, the Department shall consider whether there has been a significant increase in these imports, either in absolute terms or relative to production or to consumption in the Kingdom. With regard to the effect of the subsidized or dumped imports on prices, the Department shall consider whether there has been a significant price undercutting by these imports as compared with the price of the like product in the Kingdom, or whether the effects of such imports is otherwise to depress prices to a significant degree or to prevent price increases, which otherwise would have occurred to a significant degree.

No one or several of these factors can necessarily give decisive guidance.

## **Article Twenty-One:**

Where a product under investigation has been imported from more than one concerned country in the same investigation, the Department may cumulatively assess the effects of such imports from the exporting countries only if it determines that:

- a. the margin of dumping or the amount of subsidy and the volume of imports for each country exceeds the level specified in paragraph 7 of Article 6 of the Regulation;
- b. a cumulative assessment of the effects of the imports is appropriate in light of the conditions of competition between the imported products and the conditions of the competition between the imported products and the like product in the Kingdom.

## **Article Twenty-Two:**

The examination of the impact of dumped or subsidized imports on the domestic industry shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investment, or utilization of capacity; factors affecting domestic prices, the magnitude of the dumping margin, actual or potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital or investments and, in the case of agriculture, whether there has been an increased burden on government support programs.

This list is not exhaustive, nor can one or several of these factors necessarily give decisive guidance.

## **Article Twenty -Three:**

1. The investigation must demonstrate that the dumped or subsidized imports are, through the effects of dumping or subsidy on the factors set forth in paragraph 2 of Article 20 and Article 22 of the Regulation, causing injury to the domestic industry. The demonstration of a causal relationship between the dumped or subsidized imports and the injury to the domestic industry shall be based on an examination of all relevant evidence available within the investigation.

2. The investigation shall also examine any known factors other than dumped or subsidized imports, which at the same time are injuring the domestic industry, and the injuries caused by these other factors must not be attributed to the dumped or subsidized imports. Factors which may be relevant in this respect include the volume and prices of imports not sold at dumped or subsidized prices, contraction in demand, changes in the patterns of consumption, trade restrictive practices, competition between the foreign and domestic producers in the Kingdom, developments in technology and the export performance and productivity of the domestic industry.
3. The effect of the dumped or subsidized imports shall be assessed in relation to the domestic production of the like product when available data permit the separate identification of that production on the basis of such criteria as the production process, producers' sales and profits. If such separate identification of that production is not possible, the effects of the dumped or subsidized imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes the like product, for which the necessary information can be provided.

#### **Article Twenty -Four:**

A determination of a threat of material injury shall be based on facts and not merely on allegations, conjecture or remote possibility. The change in the circumstances which would create a situation in which the dumping, or subsidy would cause injury must be clearly foreseen and imminent. In making a determination regarding the existence of a threat of material injury, such factors as, *inter alia*, should be considered:

- a. a significant rate of increase of dumped or subsidized imports destined to the Kingdom indicating the likelihood of substantially increased importation;
- b. sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped or subsidized exports destined to the Kingdom, taking into account the availability of other export markets to absorb additional exports;

- c. whether imports are entering at prices that will have a signification depressing or suppressing effect on domestic prices, and would likely increase demand for further imports;
- d. inventories of the product under investigation;
- e. in a countervailing measures investigation, nature of the subsidy under investigation and the trade effects likely to arise therefrom.

No one of these factors by itself can necessarily give decisive guidance but the totality of the factors considered must lead to the conclusion that further dumped or subsidized exports are imminent and that, unless protective action is taken, material injury would occur.

## **Article Twenty-Five:**

Determination of the material retardation of a newly established domestic industry shall be based on the finding that dumped or subsidized imports have caused injury to the newly established domestic industry by examining the impact of dumped or subsidized imports on the state of the newly established domestic industry. The determination shall be based on its available historical data during the period of investigation, the targeted production and market plans, and the feasibility studies adopted by the newly established domestic industry considering investments in the Kingdom. In addition to adhering to the provisions regarding the determination of injury and causal link provided in this Chapter, in considering the state of the newly established domestic industry, factors demonstrating the existence of the newly established domestic industry, including the following shall be considered:

- a. A determination of whether the newly established domestic industry is producing a new product on a commercial basis, and a determination of the production level reached by the newly established domestic industry when the investigation begins as well as the time frame for the completion of the stages of the commercial production;
- b. A determination of the new like product, whether it is entirely new product in the Kingdom, or a product that is significantly developed or entirely transformed as to be substantially distinguished from the existing product in the Kingdom;

- c. A determination of whether the new product was not previously produced in the Kingdom or it was not produced in a commercially stable manner in the Kingdom;
- d. A determination of the total market size of the Kingdom for the new product, to be compared with the actual or targeted sales volume of the newly established domestic industry;
- e. A determination of the newly established domestic industry actual or design production capacity of the new product and to what extent it is capable to utilize such capacity;
- f. An evaluation of the extent to which the newly established domestic industry has been deferred or hindered from reaching stable commercial sales for the new product, or the extent to which the newly established industry has deferred or been hindered to execute steady production operations for the new product;
- g. An evaluation of to what extent the newly established domestic industry has been deferred or hindered from overcoming the start-up phase or to reach the break-even point.

No one of the factors in this Article by itself can necessarily give decisive guidance but the totality of the factors considered must lead to the conclusion that actual or imminent dumped or subsidized imports have caused or threaten material retardation of a newly established domestic industry.

## **CHAPTER VIII - DETERMINATION OF THE INCREASE IN IMPORTS AND SERIOUS INJURY OR THREAT THEREOF**

### **Article Twenty -Six:**

An increase in imports shall be established when it is demonstrated that the imports of the product under investigation destined to the Kingdom are supplied in such increased quantities during the period of investigation, either in absolute or relative terms to the domestic production of the like product.

### **Article Twenty -Seven:**

1. In determining whether increased imports have caused or are threatening to cause serious injury to the domestic industry, the Department shall examine and evaluate all relevant factors of an objective and quantifiable nature having a bearing on the situation of the domestic industry, including the following factors:
  - a. the price effect of the product under investigation in the Kingdom on the price of the like product;
  - b. the rate and amount of the increase in imports of the product under investigation, in absolute or relative terms;
  - c. the market share in the Kingdom taken by the increased imports;
  - d. changes in the level of sales;
  - e. Production;
  - f. Capacity utilization;
  - g. Profits and losses;
  - h. Employment.
2. In determining threat of serious injury, in addition to examining whether the serious injury is one that is clearly imminent according to the factors outlined in paragraph 1 of this Article, the following facts and evidence shall be examined:
  - a. the rate of increase in exports of the product under investigation to the Kingdom;
  - b. the current status of the volume of production capacity of the exporting or producing countries of the product under investigation and the extent to which it is likely to be developed in the near future, and the extent to which the increase in production capacity is likely to be directed at export to the Kingdom.

### **Article Twenty- Eight:**

1. The investigation shall demonstrate, on the basis of objective evidence, the existence of a causal link between the increased imports of the product under investigation and the serious injury or threat thereof, as set forth in Articles 26 and 27 of the Regulation.
2. When factors other than increased imports are causing injury to the domestic industry at the same time, such injury shall not be attributed to increased imports.



## **CHAPTER IX - SAMPLING**

### **Article Twenty- Nine:**

1. In cases where the number of producers of the like product in the Kingdom, or the number of producers, exporters, importers of the product under investigation, or where the number of shipments or types of product under investigation is so large as to make such a determination impracticable for the Department, the examination may be limited either to a reasonable number of producers, exporters, importers, or shipments or types, by using samples which are statistically valid on the basis of information available to the Department at the time of the selection, or to the largest percentage of the volume of production or sales for concerned domestic producers or to the largest percentage of exports from the country in question, or to the volume of imports of the concerned importers, or to the volume of sales for shipments or types of items which can reasonably be investigated within the period available for investigation.
2. The Department shall determine the final sample to be used in the investigation. To determine an appropriate sample, the Department may conduct consultations with the producers, exporters or importers concerned with the investigation to reach a mutually accepted sample, provided that such producers, exporters and importers have made themselves known in the investigation and have provided sufficient information to the Department within a reasonable period as determined by the Department before the determination of the final sample.

### **Article Thirty:**

1. In cases where the Department has limited its examination, as provided for in this Chapter, the Department shall nevertheless determine an individual margin of dumping or individual amount of subsidy for any exporter or producer not initially selected in the sample, who submits the necessary information in time for that information to be considered during the course of the investigation, except where the number of exporters or producers is so large that a determination of an individual anti-dumping margin or an individual amount of subsidy for each exporter or

producer would be unduly burdensome to the Department and would prevent the timely completion of the investigation.

2. The Department may amend the sample if there was insufficient cooperation by all or part of the sample participants, which may materially affect the outcome of the investigation. If the Department finds that there is constant non-cooperation or that there is no enough time to select a new sample, the Department may complete the investigation based on the available data in accordance with paragraph 7 of Article 10 of the Regulation.

## **CHAPTER X - ANTI-DUMPING, COUNTERVAILING MEASURES AND PRICE UNDERTAKINGS**

### **Article Thirty- One:**

1. The Authority shall determine an individual anti-dumping or countervailing measure for each cooperating exporter or producer concerned without prejudice to the provisions of Chapter IX of the Regulation.
2. Where the Department has limited its examination during the investigation in accordance with Chapter IX of the Regulation, any measures applied to imports from cooperating exporters or producers not included in the sample, shall not exceed the weighted average margin of dumping or amount of subsidy established with respect to the selected exporters or producers in the sample. The Department shall disregard any dumping margins or subsidy amounts equal to zero or *de minimis* stipulated in paragraph 7 of Article 6 of the Regulation as well as measures established in accordance with paragraph 7 of Article 10 of the Regulation.
3. Duties shall be applied and collected on imports from all sources, found to be dumped or subsidized and causing injury. Such duties shall be applied in accordance with the measure determined for each source pursuant to the decree imposing the measures and on a non-discriminatory basis. Such duties shall not be applied on imports from those sources from which price undertakings have been accepted or on

imports for which the government of the concerned country has withdrawn the subsidy.

### **Article Thirty- Two:**

1. Pursuant to paragraph 1 of Article 5 of the Law, undertakings offered need not be accepted if the Authority considers acceptance of such undertakings impractical, or for reasons of general policy, or for any other reasons. The Authority shall, where practicable, provide to the exporter the reasons which have led it to reject or to consider acceptance of an undertaking as inappropriate, and shall, to the extent possible, give the exporter an opportunity to make comments thereon.
2. The Authority may accept price undertakings from an exporter or from a government of a country and not impose provisional or definitive duties, provided that; an exporter undertakes to revise its prices to the level eliminates the injury resulting from dumping or subsidy; or the government providing the subsidy agrees to eliminate or limit the subsidy, or take measures to limit the effects thereof.
3. The Authority may propose price undertakings to governments or to exporters, but no government or exporter shall be forced to enter into such undertakings. The fact that exporters or governments do not offer such undertakings, or do not accept an invitation to do so, shall in no way prejudice the consideration of the investigation. However, the Authority is free to determine that a threat of injury is more likely to be realized if the dumped or subsidized imports continue.
4. Upon concluding preliminary or final determinations and acceptance of voluntary price undertakings submitted by a government or an exporter, the Authority may require the party offering the undertaking and the importer to provide information relevant to the fulfillment of such an undertaking periodically and to permit verification of pertinent data in appropriate methods.
5. Pursuant to paragraph 5 of Article 9 of the Law, when the Authority accepts an undertaking after concluding preliminary affirmative determinations and before concluding final determinations, and if the party offering undertaking requests, or the Authority decides to complete the investigation, the price undertaking shall be

terminated if the Authority concludes in the final determinations that there is no dumping or subsidy amount for the party offering undertaking, or there is no injury provided that, such determination is not mostly due the application of the price undertaking. However, if the final determinations of no dumping or subsidy amount, or no injury is found because of the application of the price undertakings, or when the Authority concludes in the final determinations an affirmative determination of dumping or subsidy and injury, the undertaking shall continue based on the agreement concluded with the party offering the undertaking.

6. In case of violation of an undertaking, the Authority may take, in accordance with the provisions of the Law and the Regulation, expeditious actions of imposition of definitive measures on the violating party if the investigation has previously been completed. In case of suspension of the investigation, the Authority may apply immediately provisional measures on the shipments of the violating party using the best information available. In such cases, the Department shall complete the investigation to conclude final determinations and imposition of definitive measures. The Authority may levy definitive measures on shipments of the violating party not more than 90 days before the application of the provisional measures. Such retroactive assessment shall not apply to shipments of the party offering undertaking entering the Kingdom before the violation by the exporter to the undertaking.

### **Article Thirty -Three:**

1. Pursuant to paragraph 2 of Article 11 of the Law, measures may be retroactively levied on imports destined to the Kingdom not more than 90 days prior to the date of application of provisional measures, and up to the date of initiation of investigation, when the Authority determines that:
  - a. in anti-dumping investigations, there is a history of dumping which caused injury or that the importer was, or should have been, aware that the exporter practices dumping and that such dumping would cause injury;
  - b. in anti-dumping and countervailing investigations, the injury is caused by massive dumped or subsidized imports in a relatively short time which in light

of the timing and the volume of the dumped or subsidized imports and other circumstances such as; a rapid build-up of inventories of the product under investigation, or other factors is likely to seriously undermine the remedial effect of the imposition of measures through final decree.

2. The Authority shall notify concerned importers of having sufficient evidence that the conditions set forth in paragraph 1 of this Article are satisfied, and the level of measures expected to be collected on a retroactive basis, and that guarantees for such measures will be collected. The Authority shall offer importers an appropriate opportunity to comment prior to taking registration procedures and collection of guarantees.
3. Upon finding that the conditions set forth in paragraph 1 of this Article are fulfilled, the Authority shall immediately notify the Zakat, Tax, and Customs Authority with all information about the product under investigation and the level of the expected definitive measure based on which guarantees should be taken. The Zakat, Tax, and Customs Authority shall take the necessary procedures to register the imports of the product under investigation and shall take the necessary guarantees from importers within the limits of the expected definitive measure and within the time limit specified in the Authority's decision that shall not exceed the period specified in paragraph 2 of Article 11 of the Law.
4. The Zakat, Tax, and Customs Authority shall collect definitive measures from the date of entry into force of the final decree on imports that were subject to registration, and on which guarantees were taken in accordance with this Article. The provisions of Article 10 of the Law shall be applied to this Article with regard to the collection of definitive measures or refund of guarantees.

## **CHAPTER XI - SAFEGUARD MEASURES**

### **Article Thirty- Four:**

Pursuant to paragraph 1 of Article 6 of the Law, the Authority shall, based on the findings of the investigation, identify the form of the safeguard measures, whether to be in the form of *ad valorem* duties, monetary values, quantitative restrictions, guarantees,

or a combination of all or any other form convenient for the investigation. The Authority shall identify the level of safeguard measures to the extent necessary to prevent or remedy serious injury and to facilitate adjustment for the domestic industry.

### **Article Thirty -Five:**

1. Pursuant to paragraph 2 of Article 5 and paragraph 1 of Article 6 of the Law, the Authority may apply quantitative restrictions upon imposition of definitive safeguard measures, provided that the following conditions are met:
  - a. such a measure shall not reduce the quantity of imports of the product subject to the measure below the level of a recent period which shall be the average of imports volume of the product subject to the measure in the last three representative years for which statistics are available;
  - b. the condition set forth in subparagraph (a) of this paragraph may not apply where clear justification is given and accepted by the Authority, that a different level is necessary to prevent serious injury or threat thereof for the achievement of the objective of the measures pursuant to paragraph 1 of Article 6 of the Law.
2. In cases in which definitive safeguard measures take the form of quantitative restrictions requiring a quota allocation among supplying countries of the product subject to the measure to the Kingdom, the Authority shall apply the following procedures:
  - a. the Authority may conduct consultations with the aim to seek an agreement with respect to the allocation of shares in the quota with concerned countries having a substantial interest in supplying the product subject to the measure. In cases in which this method is not effective or the Authority considers it impracticable, the Authority shall allot to the exporting countries concerned having a substantial interest in supplying the product subject to the measure, shares based upon the proportions, supplied by such countries during a previous representative period, of the total quantity or value of imports of the product subject to the measure, due account being taken of any special factors which may have affected or may be affecting the trade in the product subject to the measure;

- b. the Authority may depart from the provision in subparagraph (a) of this paragraph provided that consultations under Article 55 of the Regulation are conducted under the auspices of the Committee on Safeguards, provided that the Authority provides a clear demonstration to the Committee that; the reasons for the departure from the provisions in subparagraph (a) of this paragraph are justified; imports from certain exporting countries concerned have increased in disproportionate percentage in relation to the total increase of imports of the product subject to the measure in the representative period; and the conditions of such departure are equitable to all exporting countries concerned of the product under investigation. The duration of any such measure shall not be extended beyond the initial period under paragraph 4 of Article 7 of the Law. The departure referred to above in this subparagraph (b) shall not be permitted in case the measure was imposed on the basis of threat of serious injury.
3. Safeguard measures shall be applied to the product under investigation irrespective of its source, without prejudice to the provisions of Article 63 of the Regulation.

## **CHAPTER XII - REVIEW OF MEASURES**

### **Article Thirty- Six:**

1. Pursuant to paragraph 2 of Article 6 of the Law, the Authority may, on its own initiative and where warranted, carry out an interim review at any time after the imposition of definitive measures, or upon a request by any interested party or representative thereof which submits positive information substantiating the need for an interim review, provided that one year has lapsed from the date of imposition of the definitive measures.
2. The Authority may carry out an interim review when the review request includes sufficient evidence of the existence of substantial changes in circumstances justifying the examination of any of the following or both of them:
  - a. whether the continued imposition of the measures is necessary to offset dumping or specific subsidy;

- b. whether the injury or serious injury or threat thereof would be likely to continue or recur if the measures were removed or varied.
3. The Department may, in an interim review, examine whether there has been substantial changes in circumstances pertaining to dumping or specific subsidy and injury, or the increase of imports causing serious injury or threat thereof or changes related to the effectiveness of the level, scope, or form of measures imposed to remove the injury or serious injury or threat thereof upon imposition of the measures, or changes related to the scope of the product subject to the measure and any other substantial changes or circumstances occur thereto.
4. As a result of the interim review and based on the scope of examination, evidence and findings, the Authority may decide to terminate the measures or to amend the level, scope, or form of measures in accordance with the provisions of paragraph 1 of Article 6 and paragraph 1 of Article 8 of the Law.

### **Article Thirty Seven:**

1. Pursuant to paragraph 2 of Article 7 of the Law, the Authority may, on its own initiative, or upon a request by the domestic industry or a representative thereof, and prior to the expiry date of the measures, initiate an expiry review of the definitive anti-dumping measures and countervailing measures. The measures imposed shall remain in force pending the outcome of the expiry review and the issuance of a decision of the Chairperson thereon.
2. The domestic industry shall submit a request for the expiry review at least 180 days prior to the expiry date of the measures. The request for the expiry review shall fulfill all the documentary conditions for acceptance at least 90 days prior to the expiry date of the measures. The request shall include information and evidence that the expiry of the measures would be likely to lead to continuation or recurrence of dumping, specific subsidy and injury.
3. In the expiry review and when examining the likelihood of continuation or recurrence of dumping, specific subsidy and injury, the Department may examine; whether dumping, specific subsidy and injury continue; or whether there is evidence



demonstrating, upon circumstances pertaining to exporters or governments or the market situation of the subject product, that there would be likelihood of continuation or recurrence of dumping or specific subsidy causing injury; or whether the removal or the reduction of injury level incurred by the domestic industry is mainly or partially due to the measures imposed.

4. The Authority may, on its own initiative, or upon a request for the expiry review, decide to carry out an interim review simultaneously with the expiry review, or the scope of examination in the expiry review shall include the provisions stipulated in paragraph 3 of Article 36 of the Regulation.
5. As a result of the expiry review and based on the scope of examination, evidence, and findings, the Authority may decide to terminate the measures, or extend such same measures or vary the level, scope, or form of the measures for a period not exceeding five years, in accordance with the provisions of paragraph 1 of Article 8 of the Law.
6. The imposition of the definitive measures shall remain in force beyond the five years pending the outcome of the expiry review and the issuance of a decision of the Chairperson thereon.

### **Article Thirty Eight:**

1. Pursuant to paragraph 4 of Article 7 of the Law, the Authority shall, on its own initiative, or upon a review request submitted by an interested party or representative thereof, carry out a mid-term review of safeguard measures prior to the lapse of the mid-term of the period of imposition, if the duration of the measure exceeds three years. The purpose of such review is to assess the situation of the domestic industry and the effect of the measures thereon, and if appropriate, withdraw the measures or increase the pace of liberalization thereof. An interested party shall submit a review request to the Authority within at least a period of 120 days prior to the mid-term of the period of imposition of measures. The request for a mid-term review shall be properly documented within at least 90 days prior to the expiry of the mid-term of the period of imposition of the measures.

2. Pursuant to paragraph 4 of Article 7 of the Law, the Authority may extend the period of imposition of safeguard measures to exceed the initial period of imposition, provided that the Authority shall, on its own initiative, or upon a request by the domestic industry or representative thereof, carry out a review for extension of safeguard measures. As a result of such review, the Authority shall find that the safeguard measure continues to be necessary to prevent or remedy serious injury, and that there is evidence that the industry is adjusting. An interested party shall submit a review request to the Authority within at least a period of 120 days prior to the end of the period of imposition of the measures. The review request shall be properly documented within a period of at least 90 days prior to the expiry of the period of imposition of the measures.

### **Article Thirty Nine:**

1. Pursuant to paragraph 2 of Article 6 of the Law, and upon a review request submitted by an exporter and producer or their representatives, the Authority may conduct a new exporter review. Such review request shall be submitted after the completion of the investigation and the imposition of the definitive anti-dumping or countervailing measures, with the purpose of determining an individual measure for such exporter and producer, provided that each of the exporter and producer shall demonstrate the followings:
  - a. they have not exported the product under investigation during the period of investigation;
  - b. they are not related to any of the exporters or producers who exported the product under investigation to the Kingdom during the period of investigation through either their current legal status or their legal status during the period of investigation;
  - c. they have exported the product subject to the measures to the Kingdom after the period of investigation in substantial quantities sufficient to determine an individual measure to an unrelated importer, or demonstrate that any such relationship has no effect on the prices. Alternatively, that they have concluded a binding contract including all sales conditions to export substantial quantities

sufficient to determine an individual measure to an unrelated importer, or demonstrate that such relationship has no effect on the prices and the implementation of such contract shall be binding after the period of investigation.

2. The Department shall accept a request for a new exporter review upon the fulfillment of conditions stipulated for in paragraph 1 of this Article and upon the availability of all evidence and required information stated in the form of the new exporter review request. The exporter, importer and producer shall undertake to provide all information and evidence during the course of the review. The request shall be accepted when the Authority ensures the availability of a new exporter status free of any evidence or suspicions about making or creating situation that might help any of the parties to circumvent or evade the measures imposed.
3. Upon the initiation of a new exporter review, the Authority shall request the Zakat, Tax and Customs Authority to suspend the collection of duties from the exporter or producer subject to review until the completion of the review. Thereupon, the Zakat, Tax and Customs Authority shall execute the suspension, and register and monitor imports of the exporter or producer subject to the review until the completion of the review. The Zakat, Tax and Customs Authority shall take the necessary guarantees from the exporter and importer, or any of them, to ensure the collection of duties on imports retroactively, should the Authority concludes in such a review to impose anti-dumping or countervailing duties on the new exporter.
4. As a result of the new exporter review, the Authority may determine an individual measure for the exporter and producer subject to the review not exceeding the identified margin of dumping or amount of subsidy. However, the Authority may, in case of non-cooperation of the exporter, the producer or the importer under investigation, impose measures pursuant to paragraph 7 of Article 10 of the Regulation or terminate the review with no determination of individual margin.

## **Article Forty:**

1. Pursuant to paragraph 2 of Article 8 of the Law, and upon a review request submitted by an importer of a product subject to anti-dumping measures or representatives thereof, the Authority may, conduct a refund review. Such review request shall demonstrate with evidence that the importer has paid anti-dumping duties on shipments imported within a preceding year in excess of the actual margin of dumping determined in the definitive determination on products imported during such period. The importer shall submit a properly documented request for a refund review within the first month following end of a year of the imposition of the anti-dumping measure. In case the importer does not submit a complete documentary request within the first month of the subsequent year of imposition for review on the preceding year within the period of imposition, the Department shall not accept the request of the importer. The Department may, on its own initiative and simultaneously with the refund review, conduct an interim review in accordance with Article 36 of the Regulation.
2. The Department shall not accept a request for a refund review unless the following conditions are fulfilled:
  - a. information specifying clearly the alleged refund amount in the duties and how this amount is directly linked to all shipments the importer has supplied during the review period and has paid duties for;
  - b. proper and complete information and documents about all shipments of the product subject to the measures imported by the importer during the review period. Such documents shall include invoices, shipping, insurance, customs clearance, and documents for the payment of anti-dumping duties and collection thereof;
  - c. the imported shipments subject to the refund review request shall be made by unrelated exporter and producer to the importer, or it was proven that the such relation has no effect on prices. The exporter, producer and importer shall all have cooperated in the original investigation in which the individual definitive anti-dumping duties were determined, whether in accordance with paragraphs 1

and 2 of Article 31 of the Regulation or in accordance with paragraph 1 of Article 39 of the Regulation;

- d. the concerned importer, exporter, and producer of the shipments under review shall undertake to participate in the review and fully cooperate therein and to provide all information requested by the Department;
  - e. the importer, exporter, and producer shall undertake that the collected duties were not compensated to the importer by the exporter, producer, or a third party. They shall undertake that the prices shown in the presented invoices are actual selling prices and that no compensatory arrangements have been made either before, during or after sales that affects the actual selling value of the product;
  - f. the exporter and producer subject to review shall undertake to provide all information regarding the normal value and export price of the product subject to the measure made by the exporter and producer subject to review for all domestic sales and export sales to all sources in the Kingdom during the review period. The Authority shall determine the dumping margin of the exporter and producer during the review period using the same methodologies for determining the dumping margin determined in the original investigation under which the duties were imposed, except where change in circumstances occurred that makes the application of the same methodology inappropriate.
  - g. any other information requested by the Department to proceed with the review.
3. In determining whether and to what extent a reimbursement to the importer should be made when the export price is constructed in accordance with paragraph 2 of Article 15 of the Regulation, the Department should take account of any change in normal value, any change in costs incurred between importation and resale, and any change in the resale price which is duly reflected in subsequent selling prices. When all conclusive evidence is submitted, the Department should calculate the export price with no deduction for the amount of anti-dumping duties paid.
4. As a result of the refund review, the Authority may, conclude on the eligibility of the importer to the amount of the claimed refund or a part thereof. The Authority shall, based on the Chairperson's decision, request from the Zakat, Tax and Customs

Authority to take the necessary action to refund this amount to the importer. The Zakat, Tax and Customs Authority shall execute the refund within 90 days from the date of the Chairperson decision, unless the Zakat, Tax and Customs Authority requests an extension of this period for clear and justified considerations.

5. Based on a refund review that was simultaneously conducted with the interim review, If the Authority finds that the margin of dumping calculated in such review is different from imposed measures, the Authority shall adjust the level of duties applicable to the exporter and producer subject to review according to paragraph 4 of Article 36 of the Regulation.

### **Article Forty One:**

1. When conducting an anti-circumvention review according to Chapter VI of the Law, the practice of absorption shall exist, in accordance with paragraph 5 of Article 14 of the Law, in any of the following situations:
  - a. the exporter or producer reduces the export price of the product subject to the measure in order to compensate the importer or a third party, or compensate any of them in any other way for all or part of the value of the imposed measures, provided that, the normal value or the amount of subsidy for the product does not decrease in the same proportion, or there is no justification for the reduction in the export price of the product except to undermine the impact of the measure;
  - b. the importer does not sufficiently increase the selling prices of the product subject to the measure in the Kingdom to reflect the impact of the imposed measure on prices, unless the unrelated importer to the exporter or producer provides evidence that the price level was determined independently without assistance from or arrangements with any other party and such price results from selling such product;
  - c. the value of a competition contract including the product subject to the measure, does not increase after the imposition of the measures, despite the increase in the price of the product due to the imposition of the measure.

2. Pursuant to paragraph 6 of Article 15 of the Law, in the event that the Zakat, Tax and Customs Authority detects that an importer has practiced circumvention to evade payment of the applied measures or part of them together with a practice of customs evasion, the Zakat, Tax and Customs Authority shall issue a seizure report to provide evidence and information indicating the practice of circumvention in order to evade measures, and immediately notify the Authority with the report accompanied with evidence and information demonstrating the practice of circumvention to evade the payment of measures.

However, if the circumvention found to result in the evasion of measures was not associated with a customs evasion incident, the Zakat, Tax and Customs Authority shall issue a report of the incident and immediately notify the Authority with the report accompanied with evidence and information demonstrating the practice of circumvention to evade the measures.

## **Article Forty Two:**

1. When conducting the reviews mentioned in this Chapter, the Department shall apply the relevant provisions in Chapters II, III, IV, VIII, IX and XI of the Regulation, *mutatis mutandis* pursuant to the conformity of each provision in these Chapters with the type of each review.
2. When conducting the reviews mentioned in this Chapter, the Department shall generally apply the same methodology used in the original investigation in which the trade remedies measures were determined, taking into consideration any evidence demonstrating the existence of significant developments that may change this methodology used and according to the type of each review. The aforementioned applies in particular to the findings of the Authority in accordance with Chapters V, VI, VIII and IX of the Regulation.
3. Pursuant to paragraph 6 of Article 12 of the Law, when the Governor decides to extend the review period for more than 12 months, as warranted, the Governor's extension decision shall demonstrate the existence of objective factors related to the review that require an extension thereof.

## **CHAPTER XIII- PUBLIC INTEREST INFORMATION**

### **Article Forty Three:**

1. Pursuant to paragraph 1 of Article 19 of the Law, public interest persons may make themselves known in the period as specified for the interested parties in paragraph 1 of Article 9 of the Regulation, in the investigation, expiry review, or review of extension of safeguard measures, unless the notice of initiation of the investigation, expiry review, or review of extension of safeguard measures specifies otherwise. Public interest persons shall not provide any information or evidence on their views except during the period for the submission of public interest information in accordance with paragraph 2 of this Article.
2. Pursuant to paragraph 2 of Article 19 of the Law, the public interest persons shall submit their views on the extent to which the imposition of measures may affect the public interest and whether or not the imposition, extension, non-imposition or termination of the measures would be in the public interest. Evidence demonstrating which decision would be in the public interest, shall be submitted in writing. Such information and evidence shall be submitted to the Department within the period specified for submitting public interest information either in the notice of the initiation, the notice of expiry review, or the notice of extension of safeguard measures. In all events, this period shall be specified to be at least 5 months as of the date of initiation of the investigation, the expiry review, or the extension of safeguard measures and at least 2 months prior to the final determination of the investigation or the review.
3. Public interest persons are required to submit authenticated documents in accordance with paragraphs 8 and 9 of Article 9 of the Regulation.
4. No party shall be accepted as a public interest person if such party is an interested party or related to an interested party, without prejudice to the right of the interested party to provide all evidence and information to defend party's interests in accordance with paragraph 6 of Article 9 of the Regulation.



5. The Department shall accept information and evidence from public interest persons who made themselves known within the time limits publicly specified, and when submitting such information and evidence within the time limits publicly identified for submitting information of the public interest.
6. Public interest persons shall provide information and evidence in accordance with the conditions set forth by the Department, including the conditions to submit summaries, number of pages, method of providing evidence, types and quality of evidence. The Authority may reject such information if not fulfilling the required conditions.

#### **Article Forty Four:**

1. Pursuant to paragraph 3 of Article 19 of the Law, the Department shall, whenever practicable, provide timely opportunities for the interested parties and public interest persons, upon a written request, to have access to non-confidential information in the public file of public interest during the course of the investigation or the review.
2. Interested parties and public interest persons may submit information and evidence to support or refute the views presented by public interest persons, within a period not exceeding 7 days as of the day following the end of the period for providing information of public interest, provided that complying with the requirements and conditions related to information and evidence in accordance with paragraph 6 of Article 43 of the Regulation.

#### **Article Forty Five:**

1. Information and evidence on public interest received by the Department in accordance with this Chapter shall not affect the preliminary or final findings of the investigations, expiry reviews, or reviews of the extension of safeguard measures. Such information shall not be included in any of the notices or reports issued by the Authority during the course of such investigations or reviews.
2. Upon the Governor's approval of the final findings of the investigation, expiry review, or review of the extension of safeguard measures and submission thereof to the Chairperson, the Governor shall include in such submission all information and

evidence provided by public interest persons or interested parties in accordance with the provisions of this Chapter.

3. The Governor may, if warranted, submit information and evidence related to the public interest to the Chairperson at any time before approving the final findings in an investigation, expiry review, or review of the extension of safeguard measures.
4. Pursuant to paragraph 2 of Article 20 of the Law, the Chairperson may make a decision on the public interest considerations, and may examine information on the public interest or may request additional information in this regard. The Chairperson may form a specialized committee to evaluate the information and evidence submitted on the public interest and to determine the extent of the impact thereof on the decision to impose or extend the measures.
5. The Chairperson may take all necessary actions to examine and evaluate the public interest when deciding to impose or extend measures. This shall not prevent him from taking his decisions within the period specified in accordance with Article 61 of the Regulation.

## **CHAPTER XIV- USE OF BEST INFORMATION AVAILABLE**

### **Article Forty Six:**

1. The Authority shall specify the required information in the notice of initiation of investigations, reviews, and any subsequent notices, as well as in any main or supplementary questionnaires. The Authority shall specify the standards and specifications required to accept such information and the time limits for submission of such information to the Department.
2. Pursuant to paragraph 7 of Article 10 of the Regulation, in cases of non-cooperation of any interested party, or providing information inconsistent with the requested standards and specifications, providing false, incomplete information, or otherwise, not providing the necessary information within the time limit without obtaining a written permission of extension from the Department, the Department shall have the right to reject all or part of the information provided by the interested party, and may

make, preliminary or final negative or positive determinations in the investigation or review, on the basis of the facts available to the Department, including those contained in the complaint provided by the domestic industry.

### **Article Forty Seven:**

1. The Authority may set conditions for accepting information from the interested parties, including, *inter alia*, technical and technological specifications, such as submitting the information *via* specific electronic media or uploading information on a website specified by the Authority, or may require the use of specific technical programs, submit printed copies of special specifications, or all of the above, or any other specifications and requirements, provided that the Authority has specified these technological and technical specifications in its declared policies, questionnaires or notices.
2. Any interested party that finds that the requested technical and technological specifications do not comply with the nature of their information, or finds that transforming such information in order for it to be compatible with specifications requested would be impossible and would result in a significant financial burden or significant effort, shall immediately, within the first quarter of the period specified for submitting the data, address the Department to explain the difficulties faced and provide evidence thereof as well as suggest appropriate alternatives. The Department shall promptly examine these difficulties objectively. The Department shall not reject the information provided by the interested party because of it being inconsistent with the technological and technical specifications if the party submitted convincing reasons to the Department explaining the difficulty or inability to do so. The Department may accept the proposals of the interested party if sufficient or it may offer other suitable alternatives which would enable the interested party to provide acceptable information to the Department. The Authority shall, as soon as possible, notify the interested party of the Department's decision in this regard and may grant the interested party an extension period for providing this information based on the alternative specifications if deemed necessary.

## **Article Forty Eight:**

1. When the interested party submits the requested information in accordance with the terms and time limits specified by the Authority, and if the Department finds that parts thereof are not integrated in acceptable manner, whether due to a misunderstanding by the interested party in relation to some requested information, or because of an unintended human or technical error, or if the Department finds that there are some insufficient responses that need additional clarifications or for any other objective and justified reasons, the Department shall not reject such information immediately, but rather send the interested party supplementary questions requesting completion of the information or amendments thereto within a specified time, provided that this would not impede or delay the investigation or review procedures.
2. The Department may reject in whole or in part the information submitted by the interested party and rely on the available information in accordance with this Chapter. The Department may reject such information, when it finds that the interested party has deliberately not provided information, or withheld some of it, or claims not to understand or be unable to provide such information or refuses to complete data despite the Department requests for completion within a specified time, or when the interested party impedes or delays the investigation or review based on any other subjective and unjustified actions or claims.

## **Article Forty Nine:**

1. The Department may disregard in whole or in part the information provided by the interested party if not complying with all the requirements specified by the Authority. The Department shall assess the extent and volume of the information to be disregarded by evaluating the level of effort exerted and the range of objectivity with which the interested party interacted with the Department during the investigation or review, and according to the Department assessment of the quality, adequacy, and verifiability of the information provided.

2. When the Department decides to rely on available information in reaching the findings of the investigation or review, including those with respect to normal value, amount of subsidy, or other information about selling prices or cost, the Department shall, whenever practical and available, not rely only on information supplied in the complaint or review request, but should check and verify the information from other independent sources at its disposal, such as published official sources or reports, independent research centers and from the information obtained from other interested parties or otherwise from other objective sources.

### **Article Fifty:**

1. When the Department decides to reject information or evidence submitted during the investigation or review, the Department shall notify, in writing, the interested party of the information rejected and reasons therefore and shall grant the interested party a suitable opportunity during the investigation or review to comment on the decision of information rejection. If the comments or explanations made on the decision are considered unsatisfactory, the reasons for rejection of such evidence or information shall be given by the Authority in any subsequent published notice.
2. The use of available information in reaching findings in the investigation or review leads to, in most cases, less favorable results for the interested party than if it had fully cooperated with the Department.

## **CHAPTER XV ON-THE-SPOT VERIFICATION VISITS**

### **Article Fifty One:**

1. Pursuant to paragraph 4 of Article 10 of the Regulation, the Department may at its discretion and where practicable, carry out on-the-spot verification visits at the premises of the interested parties, including the domestic industry, importers, exporters, producers, users, agents, representatives of the interested parties, associations, and any relevant governmental or private concerned entities or other affiliated entities related to the investigations or reviews, with the purpose of verifying information or obtaining additional information related to the

determination of dumping, specific subsidy and injury or information about increased imports and serious injury or threat thereof.

2. When the Department finds that the level of cooperation by an interested party is insufficient, during the investigation or review, or the foreign country, in which the premises of the interested party are located, objects to carry out the visit, or the interested party rejects to carry out the visit or precludes the procedures of the visit, the Department may decide not to carry out an on-the-spot verification visit to the interested party, and may choose to rely on the available information in accordance with Chapter XIII of the Regulation.

### **Article Fifty Two:**

1. The Authority shall notify the competent authorities in the foreign countries of the decision of the Department to carry out on-the-spot verification visits to the premises of interested parties in their territories. The Department shall not carry out visits upon the objection of any of such countries and the Authority shall notify the interested party of the objection of country thereof to carry out verification visits.
2. The Authority shall give the interested party sufficient advance notification of a request to carry out a verification visit at the premises thereof. The notification shall specify the proposed dates for carrying out the visit and a general summary on the nature of the information to be verified, though this does not preclude requests made during the verification for additional information to be provided. A written agreement of the carrying out of the visit and the date agreed upon shall be provided by the interested party to the Department.
3. The Authority shall notify the relevant authorities of the country to be visited about the agreement concluded with the interested party, indicating the date of the visit and the contacts of the interested party to be visited. The Authority may issue this notification separately or attach it with the notification in paragraph 1 of this Article.

### **Article Fifty Three:**

1. In most cases, verification visits should be carried out after receiving responses of the interested parties on questionnaires. However, this does not preclude the

Department from carrying out on-the-spot verification visits prior to this upon fulfillments of the provisions of Article 52 of the Regulation.

2. If the Department decides to include non-governmental experts in the verification visit team, the authority should inform the interested parties and the authorities of the foreign countries to be visited, and such non-governmental experts should be subject to confidentiality requirements.
3. For a successful completion of the verification visit, the Department may exchange inquiries put by the interested parties to be visited and answers thereof before the visit is made.

## **CHAPTER XVI- CONSULTATIONS IN SAFEGUARDS INVESTIGATIONS & NOTIFICATIONS TO THE WTO COMMITTEE ON SAFEGUARDS**

### **Article Fifty Four:**

1. Pursuant to paragraph 4 of Article 16 of the Law, the Authority shall immediately notify the WTO Committee on Safeguards upon the following events:
  - a. initiating an investigatory process relating to serious injury or threat thereof and the reasons for it;
  - b. making a finding of serious injury or threat thereof caused by increased imports;
  - c. taking a decision to apply or extend a safeguard measure.
2. In making the notifications referred to in sub-paragraph 1(b) and 1(c) of this Article, the Authority proposing to apply or extend a safeguard measure shall provide the Committee on Safeguards with all pertinent information, which shall include:
  - a. evidence of serious injury or threat thereof caused by increased imports;
  - b. a precise description of the product under investigation;
  - c. the proposed measure, and proposed date of introduction;
  - d. the expected duration and timetable for progressive liberalization;
  - e. in the case of an extension of a measure, evidence that the domestic industry concerned is adjusting shall also be provided.

### **Article Fifty Five:**

The Authority, proposing to apply or extend a safeguard measure, shall, in the notifications referred to in sub-paragraph 1(b) and 1(c) of Article 54 of the Regulation, provide adequate opportunity for prior consultations with those countries having a substantial interest as exporters of the product under investigation, with a view to, inter alia, reviewing the information provided under paragraph 2 of Article 54 of the Regulation, and exchanging views on the measure.

### **Article Fifty Six:**

The Authority shall make a notification to the Committee on Safeguards on taking a decision of provisional safeguard measure prior to the date of entry into force, and consultations shall be initiated immediately after the measure's entry into force.

### **Article Fifty Seven**

The result of the consultations referred to in this Chapter, as well as the results of mid-term reviews referred to in paragraph 1 of Article 38 of the Regulation, shall be notified immediately by the Authority to the WTO Council for Trade in Goods.

### **Article Fifty Eight**

The Authority shall consider, in notifications provided, the non-disclosure of any confidential information, the disclosure of which would violate the laws and regulations enforced, or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of particular enterprises, public or private.

## **CHAPTER XVII- FINAL PROVISIONS**

### **Article Fifty Nine:**

- 1. In the execution of the provisions of paragraph 7 of Article 6 of the Regulation, any complaint and countervailing duty investigation against a product originating in a developing WTO Member shall be rejected or terminated respectively as soon as the Authority determines that the volume of the subsidized**



**imports under complaint or investigation represents less than 4 per cent of the total imports of such product destined to the Kingdom, unless imports from concerned developing country Members whose individual shares of total imports represent less than 4 per cent collectively account for more than 9 per cent of the total imports of such product destined to the Kingdom, or the overall level of subsidies granted upon the product in question does not exceed 2 per cent of its value calculated on a per unit basis.**

2. Safeguard measures shall not be applied against a product originating in a developing country WTO Member as long as its share of imports of the product concerned in the Kingdom does not exceed 3 per cent of the total imports of the product under investigation, provided that, each developing country WTO Member with no more than 3 per cent import share does not collectively account for more than 9 per cent of total imports of the product under investigation. The Authority shall immediately notify the Committee on Safeguards of any decision taken under the provision of this paragraph.

### **Article Sixty:**

1. The investigation and review shall begin as of the date of publication of notices of initiation, and their procedures shall conclude upon the Governor's decision on the final findings and recommendations.
2. In the event that the Authority has not concluded the investigation by reaching the final findings within the time limits specified in accordance with paragraphs 4 and 5 of Article 12 of the Law, the investigation shall be considered to be terminated without imposition of measures. In the event that the Authority has not concluded the expiry review or extension of safeguard measures review within the time limits specified in accordance with paragraph 6 of Article 12 of the Law, the measures

shall be terminated. However, in case of issuance of a binding court adjudication or order that suspends an investigation or expiry or extension review of safeguard measures, the Authority shall issue a public notice with the reasons for the suspension of the investigation, the expected period of suspension, and the impact of the suspension on the subsequent proceedings. In reviews other than expiry reviews and reviews of the extension of safeguard measures, if the duration of the review expires without concluding the review, the measures shall remain unchanged. The Governor or the Chairperson shall issue a decision, as the case may be in this paragraph, and publish a notice thereon in accordance with Chapter VII of the Law setting out the final status of the investigation or review and the status of the measures

### **Article Sixty One:**

The Chairperson shall take decisions regarding provisional measures and reviews within a period not exceeding 15 days from the date of the Governor's decision and submission of preliminary findings of investigations and findings of reviews, except for expiry reviews and reviews on the extension of safeguard measures. The Chairperson shall take decisions regarding definitive measures within a period not exceeding 60 days from the date of the Governor's decision and submission of the final findings of anti-dumping, countervailing and safeguard investigation; and the findings of expiry reviews or reviews on the extension of safeguard measures.

### **Article Sixty Two:**

1. In accordance with Article 31 of the Law, and for the purpose of achieving its duties related to trade remedies, the Authority can request, receive, access, collect, and maintain all confidential and non-confidential information from relevant governmental entities. Such information includes all information related to the examination of the complaint, investigation, review and related to the stage of imposing, collecting and monitoring the measures, as well as those related to export defense procedures.

2. Under paragraph 5 of Article 4 of the Law, governmental entities shall provide all confidential and non-confidential information necessary for the conduct of investigations and reviews requested by the Authority, based on the information available to each governmental entity. Such information shall be submitted in accordance with the templates prepared by the Authority, and this includes providing detailed data on imports operations into the Kingdom and exports to one or several countries, including information on volumes and values from and to all required sources and during the periods specified by the Authority. This information includes all data and documents related to importing and exporting operations, whether issued by governmental entities, exporters and importers, and other data and documents related to the trade operations under examination or related to the operations of imposing, collecting, and monitoring the measures. In addition, this information includes all data and documents related to establishments and companies producing, using, exporting, importing, consuming and trading; as well as those related to domestic or imported products under examination, including data related to actual production operations, production capacity, consumption, sales , market size, prices and other related information requested by the Authority from the relevant entities.

### **Article Sixty Three:**

In accordance with Article 4 of the Law, and for the purpose of complying with the Kingdom's international commitments in conducting investigations, reviews and imposing measures, the Authority shall apply preferential, bilateral, and special provisions related to investigations, reviews and measures as provided in the bilateral, regional, or multilateral trade agreements to which the Kingdom is a party.

### **Article Sixty Four:**

The Regulation shall be published in the Official Gazette and shall be in force from the date when the Law comes into force.