



Committee on Anti-Dumping Practices
Committee on Subsidies and Countervailing Measures
Committee on Safeguards

Original: English

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

THE STATE OF KUWAIT

Supplement

The following communication, dated 17 March 2016, is being circulated at the request of the Delegation of the State of Kuwait.

The State of Kuwait State hereby notifies the Committee on Anti-Dumping Practices, the Committee on Subsidies and Countervailing Measures and the Committee on Safeguards, in accordance with Article 18.5 of the Agreement on the Implementation of Article VI of the GATT 1994, Article 32.6 of the Agreement on Subsidies and Countervailing Measures and Article 12.6 of the Agreement on Safeguards respectively and pursuant to our notification of the English Translation of the Gulf Cooperation Council ("GCC") Amended Common Law on Anti-Dumping, Countervailing and Safeguard Measures and its Rule of Implementation (Regulation).

The GCC Regulation is authentic only in Arabic. The attached English translation of the GCC Regulation is only for the reference of WTO Members.

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**RULES OF IMPLEMENTATION OF THE GULF COOPERATION COUNCIL COMMON
LAW ON ANTI-DUMPING, COUNTERVAILING MEASURES AND
SAFEGUARDS AND ITS RULES OF IMPLEMENTATION**

(AMENDED)

**Chapter I
Definitions**

Article 1

In applying these Rules of Implementation, each of the employed words and terms shall have the same meaning as stated in Article 3 of the Common Law and the following words and terms shall have the corresponding meaning unless otherwise specified:

Serious injury: Injury which causes a significant overall impairment to the position of the concerned GCC industry.

Threat of serious injury: Serious injury that is clearly imminent to the concerned GCC industry.

Normal value: The price paid or payable, for the like product in the ordinary course of trade when destined for consumption in the exporting country.

Export price: The price paid or payable for the product under investigation when sold for export from the exporting country to the GCC market.

Dumping margin: The difference between the normal value and the export price during the period of investigation.

Amount of subsidy: The absolute monetary value of benefit to the recipient calculated during the period of investigation.

Like products: GCC products which are identical or alike in all respects to the product under investigation, or in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under investigation.

The exporting country: The exporting and/or producing country of the product under investigation.

Government: Any government, regional or local authority in a foreign country, or any committee or organization that practice any kind of authority on behalf of a foreign countries' union or a person or committee or organization acting on behalf of the above- mentioned Authorities.

Specific subsidy: A subsidy that could lead to the imposition of countervailing measures in accordance with the provisions of the Common Law and its Rules of Implementation.

Subsidized imports: Imported products under investigation that received the specific subsidy.

Interested parties: Exporter(s) or foreign producer(s) or importer(s) of the product under investigation, trade or business association(s) which represent the majority of producers, importers and exporters of the product under investigation, government(s) of the exporting country(ies), or GCC producers of the like product, governmental or private association(s) which represent consumers and protect their own interests or any other party(ies) (local or foreign) which are determined to have a sufficient interest in the results of the investigation.

Independent buyer(s): Buyer(s) without association, and without a commercial or production partnership with the importer in the importing country or with the exporter or producer in the exporting country, and without any relationship with them, or where both of them are not controlled by a third party directly or indirectly and where neither of them are members of same family.

GCC market: Combined markets of the GCC Member States.

Product under investigation: The imported product as described in the notice of initiation of the investigation.

Chapter II Complaint and Investigation Procedures

Section I Complaint

Article 2

1. A complaint against dumping, subsidization or increase of imports shall be submitted in writing to the Technical Secretariat as per the determined form. The complainant shall provide a non-confidential copy of the complaint in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence.

2. The complaint shall be made by GCC industry or on behalf of industry or by concerned Chambers of Commerce and Industry of any Member State, or by producers' unions.

3. The complaint shall include evidence of the existence of dumping, specific subsidy or increase of imports, the injury caused by the allegedly injurious practices and the causal link between the injurious practice and the alleged injury caused to the complainant, and all available information supporting the complaint.

4. In special circumstances, the Permanent Committee may initiate an investigation without receiving a complaint from those mentioned in paragraph 2 on its own initiative or upon a request from the Ministry overseeing the relevant industrial sector in any of the Member States when there is sufficient evidence as stated in paragraph 3 of this Article that justifies the initiation of the investigation.

Article 3

The Technical Secretariat shall, within a period not exceeding thirty (30) working days starting from the first working day subsequent to the receipt of the complaint, examine the accuracy and adequacy of the evidence provided in the complaint and prepare an initial report that will be transmitted to the Permanent Committee together with its recommendations whether to reject the complaint or initiate the investigation.

Article 4

The Permanent Committee shall within a period not exceeding fifteen (15) working days from the date of receipt of the initial report take one of the following decisions:

- (a) Accepting the complaint and transmit it to the Technical Secretariat to register it in the related registers set for that reason and start the investigation when they are satisfied that the information, data, where there appears to be sufficient evidence and facts reported in the complaint are sufficient to justify the investigation as per the provisions of the Common Law and its Rules of Implementation.
- (b) Reject the complaint due to the inaccuracy, incorrectness or insufficiency of information to justify the initiation of an investigation.

Article 5

The Technical Secretariat shall notify the complainant about the Permanent Committee's decision within seven (7) working days from the date of its issuance.

Article 6

1. The Permanent Committee shall decide to initiate an anti-dumping or an anti-subsidy investigation only when the complaint is supported by domestic producers whose collective output constitutes more than fifty percent (50%) of the total production of the domestic like product produced by that portion of the industry expressing either support for or opposition to the complaint; and domestic producers expressly supporting the complaint account for at least twenty five percent (25%) of total production of the domestic like product produced by the GCC industry.
2. Producers that are related to the exporters or importers or are themselves importers of the product to the complaint might not be taken into consideration in assessing the representativeness of the concerned GCC industry.
3. For the purpose of paragraph (2), producers shall be deemed to be related to exporters or importers only if one of them directly or indirectly controls the other; or both of them are directly or indirectly controlled by a third party; or together they directly or indirectly control a third party, provided that there are grounds for believing or suspecting that the effect of the relationship is such as to cause the producer concerned to behave differently from non-related producers. For the purpose of this paragraph, one shall be deemed to control another when the former is legally or operationally in a position to exercise restraint or direction over the latter.
4. In exceptional circumstances, the GCC industry may be interpreted as the local producers in different markets or areas within the GCC Member States if:
 - (a) The producers within such a market or area sell all or almost all of their production of the product in question in this market.
 - (b) If it appears that the demand in this area or market is not substantially covered by the producers of the like product elsewhere in other GCC markets or areas.

In such circumstances, injury may be found to exist even where the rest of the domestic industry of the like product in other markets or GCC member State are not injured, provided that there is a concentration of dumped or subsidized imports in question in that area or such isolated market and provided further that imports are causing injury to the producers of all or almost all of the production within this market.

In case of safeguard investigation, serious injury or threat thereof shall be based on the circumstances existing in country(ies), in which the affected industry is located.

Article 7

1. The Technical Secretariat shall, upon receipt of a properly-documented complaint regarding dumping or subsidization and before proceeding to initiate an investigation, notify the government of each country concerned.
2. The Technical Secretariat shall upon acceptance of a complaint regarding subsidization and before the initiation of an investigation, take all necessary measures to invite the exporting countries of the subsidized products under consideration to conduct consultations with the aim of clarifying the facts of the complaint, the evidence provided in the complaint and to reach a mutually agreed solution.
3. The conduct of consultations shall not prevent the initiation of the investigation from proceeding, the reaching preliminary or final determinations or the application of provisional or final measures in accordance with the provisions of these Rules of Implementation.

Article 8

The Technical Secretariat maintains records of received complaints, maintains all related procedures and actions as well as confidential files that are provided on a confidential basis or that are by their nature confidential. Such confidential information will not be disclosed except as the

provisions of protection and treatment of confidential information according to the Common Law and its Rules of Implementation.

Section II Procedures of Investigation

Article 9

The notice of the initiation of an investigation shall be published in the Official Gazette within ten (10) working days from the date on which the affirmative Permanent Committee decision was taken. The initiation of an investigation shall be effective on the date on which the notice of initiation is published in the Official Gazette. The notice of initiation of an investigation shall contain the following information:

1. A description of the product under investigation, including its technical characteristics, end-uses and its current tariff classification number.
2. A description of the like domestic product(s) or directly competitive product(s), including their technical characteristics and end-uses.
3. The name and address of the complainant and all other known producers of the like domestic product(s) or directly competitive product(s).
4. Name(s) of the country(ies) of origin or export of the product under investigation.
5. A general summary of the factors related to the allegations of serious or material injury or threats thereof and practices under investigation.
6. The investigation's initiation date.
7. The timetable for the investigation procedures, including:
 - (a) The deadline for interested parties desiring to participate in the investigation to make themselves known in writing to the Technical Secretariat,
 - (b) The time frames within which interested parties shall present their arguments or information in writing,
 - (c) The time-limits within which interested parties have the opportunity to present their submissions in writing,
 - (d) The period within which interested parties shall request a public hearing when necessary.
8. The address of the Technical Secretariat, the Technical Secretariat Director General's name, address and phone or the party to whom the interested parties shall submit information and comments.

Article 10

1. Taking into consideration the protection of the confidential information, the Technical Secretariat shall, as soon as the anti-dumping and anti-subsidy investigations are initiated, provide the full text of the non-confidential version of the complaint and a copy of the notice of initiation of the investigation to all known interested parties and the representatives of the exporting countries by official means.

In the case of safeguard investigations, the interested parties shall be notified by publishing the notice of initiation in the Official Gazette.

2. If the number of exporters concerned is particularly high, the full text of the non-confidential version of the complaint may instead be provided only to the authorities of the exporting countries.

Article 11

The Technical Secretariat shall, in the case of anti-dumping and anti-subsidy investigations, send as soon as possible questionnaires to the known interested parties, including known domestic producers, importers, exporters, foreign producers, and consumer associations to collect the necessary data and information.

In the case of safeguards investigation, questionnaires shall be sent to the parties who made themselves known and request a questionnaire or transmitted to the diplomatic representatives of the exporting countries.

Article 12

1. Interested parties shall clearly and completely respond to questionnaires within a time-limit not exceeding forty (40) days from the date on which the questionnaires were sent to them or to the appropriate diplomatic representative of the exporting countries.

2. An extension of ten (10) days may be granted upon a duly justified request by a party made before the end of the original period and showing due cause for such extension.

3. The questionnaires are considered to be received by the exporters or the foreign producers after seven (7) days from the day on which they were sent, or transmitted to the appropriate diplomatic representative of the concerned country.

4. The Technical Secretariat may disregard any reply to questionnaire that is not submitted within the time-limit provided for replying and in the requested form, where it considers that the conditions for disregarding information under Article 26 of these Rules of Implementation have been met.

Article 13

If the number of exporters, producers, importers, types of products or transactions under investigation are so large as to make such investigation impracticable, the investigation may be limited to a representative sample of interested parties, products under investigation, or transactions by using statistically-valid samples based on either the information available at the time of selection or the largest percentage of export volume, production, or sales of the concerned country which can be reasonably verified during the period of the investigation.

Article 14

1. All parties that request to participate in the investigation as interested parties within the time-limit stated in the notice of initiation of the investigation shall have fair opportunity to defend their interests. Public hearings may be held to present their views and arguments, taking into consideration the need to protect confidential information.

2. There shall be no obligation on any interested party to attend public hearings, and failure to do so shall not be prejudicial to that interested party's case.

3. All parties that request to participate in the investigation as interested party within the time-limit stated in the notice of initiation shall have fair opportunities, whenever practicable and upon written request, to see information related to the investigation and that used to reach the findings of the investigation, in accordance with the rules concerning confidential information contained in this Common Law and its Rules of Implementation.

Article 15

1. The Technical Secretariat shall keep records of the public hearings, which should be placed in the public file, with the exception of confidential information.

2. All interested parties participating in the public hearing, providing a reasonable reason, have the right to provide other oral information related to the investigation, but it shall not be taken into

account in the investigation unless it is subsequently submitted in writing within a time-limit not exceeding ten (10) days after the date of public hearing.

Article 16

Interested parties that intend to attend a public hearing shall notify the Technical Secretariat at least seven (7) working days before the date of the public hearing of the names of their representatives that will attend the hearing as well as the written arguments and information to be provided at the hearing

Article 17

Public Hearings shall be presided over by the Director General of the Technical Secretariat or his interim, who shall undertake the necessary measures to protect confidential data and statistics. Public hearings shall be organized in a manner to ensure that all participating parties have adequate opportunities to present their views.

Article 18

1. In order to verify the information provided or to obtain further details related to the investigation, the Technical Secretariat may carry out visits to countries outside the GCC Member States, provided that it obtains the agreement of the firms concerned and receives no objection from the country concerned after notifying their representatives to the on the spot visit.
2. In order to verify the information provided or to obtain further details related to the investigation, the Technical Secretariat may carry out on the spot visits inside GCC Member States.
3. The procedures described in Annex I of the WTO Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade of 1994 and Annex VI of the Agreement on Subsidies and Countervailing Measures shall apply to on the spot visits conducted under this Article.

Article 19

1. Any information which is by its nature confidential or which is provided on a confidential basis by interested parties shall be treated as confidential, if reasonable cause being shown, such information shall not be disclosed without the specific permission of the party submitting it.
2. Interested parties providing confidential information shall be required to furnish reasons supporting its confidential treatment and non-confidential summaries thereof. Such summaries shall be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence.
3. In exceptional circumstances, interested parties may indicate that information is not susceptible of summary. In such cases, a statement of the reason must be provided.
4. If it is found that the request for confidentiality is not warranted, and if the supplier of the information is either unwilling to make the information public or to authorize its disclosure in generalized or summary form, such information, may be disregarded unless it can be satisfactorily demonstrated by appropriate sources that the information is correct.

Article 20

1. The Technical Secretariat shall normally make a preliminary determination report no later than one hundred and eighty (180) days after initiation of the investigation and a final report one hundred and eighty (180) days from the date of the preliminary report, that includes the objective evidence obtained during the investigation, all information available to or issued by the Technical Secretariat at that time, and to what extent the standards, and requirements and conditions stipulated in the Rules of Implementation are satisfied.

2. These determinations shall be available in reports containing sufficient detail regarding the findings reached on all issues of fact and law, and reasons that have led to those conclusions, taking into account the need to protect confidentiality.

3. All interested parties have the right to comment and submit their arguments within fifteen (15) days of the disclosure of the preliminary reports or any published conclusions during the investigation and before reaching final determinations.

Article 21

Within thirty (30) working days of receiving the report submitted by the Technical Secretariat, the Permanent Committee shall act on the report, by either:

1. Terminating the investigation without imposing measures, where it is satisfied that there is insufficient evidence of practices of dumping, subsidy, increases in imports or injury, and a causal link between the practice and the injury affected by it.
2. Imposing provisional measures or any related measures if an affirmative determination of practices of dumping, subsidy or increases in imports, and injury, and causal link has been made.

Article 22

Upon the decision of the Permanent Committee to terminate the investigation without imposing measures, the Technical Secretariat shall notify the complainant and publish a public notice in the Official Gazette along with the decision, including the following information:

1. Identity of the complainants and the domestic products that requested the investigation;
2. Identifying the products under investigation;
3. Reasons for termination.

Article 23

The investigation shall be completed within twelve (12) months from its date of initiation. The Permanent Committee may in special circumstances extend this period for no more than six (6) months.

Article 24

Upon the decision to impose measures, whether provisional or definitive, the Technical Secretariat shall notify the complainant and issue a public notice of the application of the measures in the Official Gazette, which shall contain the following information, taking into consideration confidentiality requirements:

1. The identity of the parties subject to the measures.
2. The identification of the products subject to the measures.
3. A summary of the reasons leading to the imposition of measures.
4. The form, level and duration of the measures' application.

Article 25

1. Notifications, letters, and any other requested information shall be sent to known interested parties or their assigned representatives by registered mail which confirms deliveries to the interested parties.

2. The above mentioned notification to the known interested parties in foreign countries can be made through their diplomatic representatives or authorized consuls in any of the GCC Member States.

Article 26

1. If any interested party refuses access to, or otherwise does not provide necessary information or does not submit them within the period of time prescribed form or significantly impedes the investigation, preliminary and final determinations either affirmative or negative may be taken on the basis of the information available.

2. If any interested party provides false or misleading information, such information shall be disregarded and available information may be used.

3. In implementing this Article, applicable procedures and provisions set forth in Annex II of the WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 shall be taken in consideration.

Chapter III Anti-Dumping

Section I Determination of Dumping

Article 27

1. The normal value shall normally be based on the comparable price paid or payable, in the ordinary course of trade, for sales of like product by independent customers in the domestic market of the exporting country.

2. Notwithstanding paragraph 1 above, where a product under investigation is not imported directly from the country of origin but is exported to the GCC from an intermediate country, the normal value shall be established on the basis of comparable price paid or payable, in the ordinary course of trade, in the domestic market of the country of origin if the products are not produced in the country of export (i.e., the products are merely transhipped through the country of export), or there is no comparable price for them in the country of export.

3. In the case of an association, partnerships agreements or a compensatory arrangement or other related arrangements form of compensatory arrangement among interested parties, prices among them may be considered to be not in the ordinary course of trade and may not be used to establish normal value.

4. Sales of the like product destined for consumption in the domestic market of the exporting country shall be considered to be of sufficient quantity for the determination of the normal value if such sales constitute five percent (5%) or more of the export sales volume of the product under investigation to the GCC Member States. However, a volume lower than five percent (5%) of sales may be used if there is a satisfaction, based on the evidence submitted by the interested parties or otherwise available, that sales of such lower volume are nonetheless of sufficient magnitude to provide for proper comparison.

5. 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 the low volume of the sales in the domestic market of the exporting country, the normal value of the like product shall be established on the basis of the cost of production in the country of origin plus a reasonable amount for administrative selling and general costs as well as for profit margin, or on the basis of export price, in the ordinary course of trade, to an appropriate third country, provided that this price is reasonable.

6. Sales of the like product in the domestic market of an exporting country or export sales to a third country at prices below per unit (fixed and variable) costs of production plus administration, selling and general costs may be treated as not being in the ordinary course of trade by reason of

price and may be disregarded in determining normal value, only if it is determined that such sales were made:

- (a) Within an extended period of time, which shall normally be for one (1) year and shall in no case be less than six (6) months.
- (b) In substantial quantities, when it is established that the weighted average selling price of the transactions under consideration for the determination of the normal value is below the weighted average unit cost, or that the volume of sales below cost is not less than twenty percent (20%) of sales under consideration for the determination of the normal value.
- (c) At prices which do not provide for recovery of all costs within a reasonable period of time, if prices which are below per unit costs at the time of sale are above the weighted average per unit cost for the period of investigation, such prices shall be considered as providing for recovery of costs within a reasonable period of time.

7. Where the country exporting the product under investigation is a non-market economy country, normal value may be determined on the basis of:

- (a) The comparable price paid or payable or constructed normal value, in the ordinary course of trade, for sales of the like product when destined for consumption in a market economy of a third country; or
- (b) The comparable price paid or payable, in the ordinary course of trade, for exports of the like product from such a market economy of the third country to other countries, including the GCC Member States; or
- (c) Any other reasonable basis including the price actually paid or payable in the GCC market for the like product, duly adjusted if necessary to include a reasonable profit margin.

Article 28

1. The export price shall be determined by the price actually paid or payable of the product under investigation when it is sold for export from the exporting country into the GCC market.

2. In cases where there is no export price of the product under investigation or where it appears 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 resold to first independent buyer, or if those products are not resold to an independent buyer, or not resold in the condition as they were imported, or any reasonable basis.

Article 29

1. A fair comparison shall be made between the export price and the normal value.

2. This comparison shall be made at the same level of trade, normally at the ex-factory level, and in respect of sales made as close as possible to the same time and with due account to be taken in consideration, the settlements for differences which affect price comparability. This comparison includes differences in conditions and terms of sale, physical characteristics, import charges, taxation, quantities, level of trade, and any other differences which are claimed and also demonstrated by interested parties to affect prices and price comparability.

3. If the export price is determined on the basis of the selling price of the product under investigation to the first independent buyer in the GCC market, allowances for costs, including duties and taxes, incurred between importation and resale, as well as profit margins accruing, shall also be made. If in this case, price comparability has been affected, the normal value shall be calculated at a level of trade equivalent to the level of trade of the constructed export price or due allowances shall be made for the differences mentioned in this Article.

Article 30

1. The existence of dumping margins during the period of the investigation phase shall normally be established on the basis of a comparison of a weighted average normal value with a weighted average of prices of all comparable exports of product under investigation to the GCC market, or by a comparison of normal value and export price on a transaction-to-transaction basis.
2. A normal value established on a weighted average basis may be compared to prices of individual export transactions to the GCC market, if there is a pattern of export prices which differ significantly among different purchasers, regions or time period, and if using the methods in paragraph 1 would not reflect the dumping being practiced.
3. Dumping margin shall be determined based on the amount by which the normal value exceeds the export price. An individual dumping margin shall be determined for each known exporter or producer concerned by the product under investigation.
4. Notwithstanding paragraph 3 of this Article, in cases where the number of exporters, producers, importers, or types of products involved or trade transactions is so large as to make it impracticable to determine an individual dumping margin for each known exporter or producer, the investigation may be limited to an examination of a reasonable number of interested parties, products or transactions by using samples which are statistically valid on the basis of information available at the time of the selection, or to the largest percentage of the volume of production, sales or exports which can reasonably be investigated within the time-limit.
5. When an investigation is limited to a representative sample in accordance with this Article and Article 13, any anti-dumping measures applied to imports from exporters or producers which have made themselves known but not included in the sample shall not exceed the weighted average dumping margin established with respect to the selected exporters or producers provided that any zero, *de minimis* margins, and margins established in circumstances referred to in Article 26 shall be disregarded.
6. In cases where the examination is limited in accordance with this Article and Article 13, individual determinations of the dumping margin shall be made for any exporter or producer not initially selected who submits the necessary information within the time-limit for that information to be considered during the investigation except where the number of exporters or producers is so large that individual examinations would be unduly burdensome to the authorities and prevent timely completion of the investigation.

Section II Determination of Injury

Article 31

A determination of material injury shall be based on an objective examination of all positive evidence of the following:

1. The volume of dumped imports and its effect on prices in the GCC domestic market for like products and they can be determined by evaluating the following factors:
 - (a) With regard to the volume of the dumped imports, consideration shall be given to whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in the GCC market.
 - (b) With regard to the effect of the dumped imports on sales prices of the like product in the GCC market, consideration shall be given to whether:
 - (i) There has been a significant price undercutting by dumped imports when compared with the price of the domestic like product;
 - (ii) Whether the effect of such imports is otherwise to depress prices to a significant degree; or

- (iii) Whether the effect of such imports is to prevent price increases, which otherwise would have occurred, to a significant degree.

No one or several of the factors identified in paragraph 1 of this Article can necessarily provide decisive guidance.

2. The impact of the dumped imports on the GCC industry concerned, through an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including:

- (a) Actual and potential decline in sales, profits, production, market share, productivity, return on investments, or utilization of capacity;
- (b) Factors affecting GCC prices; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital or investments; and
- (c) The magnitude of the dumping margin.

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

3. The effect of the dumped imports shall be assessed in relation to the production of the GCC industry of the like product when available data permit separate identification of that production on the basis of criteria such as the production process and producers' sales and profits. If such separate identification of production is not possible, the evaluation of the impact of dumped imports should be undertaken by searching in narrowest group or range of products which include the like product for which the necessary information can be provided.

Article 32

1. A determination of a threat of material injury on the GCC industry concerned shall be based on facts and not merely on allegation, conjecture or remote possibility and on an examination of whether such injury is clearly foreseen and imminent. Taking into account the following:

- (a) A significant rate of increase of dumped imports into the GCC market indicating the likelihood of substantially increased importations;
- (b) Sufficient freely disposable capacity of the exporter or an imminent, substantial increase in such capacity indicating the likelihood of substantially increased dumping exports to the GCC market, taking into account the availability of other export markets to absorb any additional exports;
- (c) Whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices and would likely increase demand for further imports; and
- (d) Inventories of the product under investigation.

2. Other relevant factors that are supported by sufficient evidence may be taken into consideration, however no one or several of these factors listed above, alone or in combination, can necessarily give decisive guidance but the totality of the factors considered must lead to a conclusion that more dumped exports are imminent and that, unless preventative action is taken, material injury will occur.

Article 33

1. It must be demonstrated, that injuries caused to concerned GCC industry resulting from dumped imports and they are not related to other reasons.

2. Known factors other than dumped imports, which are at the same time injuring the concerned GCC industry, shall be examined, and injuries caused by these other factors must not be attributed to the dumped imports. Factors which may be relevant in this respect include, *inter alia*:

- (a) The volume and prices of imports not sold at dumped prices;
- (b) Contraction in demand or changes in the patterns of consumption;
- (c) Commercial restriction and competitions between GCC and foreign producers;
- (d) Developments in technologies; and
- (e) The export performance and productivity of the GCC industry.

Article 34

Where imports of a product from more than one country are simultaneously subjected to an anti-dumping investigation, the effects of such imports shall be cumulatively assessed only if it is determined that:

1. The margin of dumping established in relation to the imports from each country is more than the *de minimis* dumping margin, two percent (2%) or more of the export price;
2. The volume of the dumped imports from each country is not negligible: three percent (3%) or more from total of the GCC imports of the product under investigation; and
3. A cumulative assessment of the effects of the imports is appropriate in light of the conditions of competition between the imported products from concerned countries and the conditions of competition between the imports and the like GCC product.

Article 35

A recommendation of immediate termination of the investigation shall be made without imposing any measures in the following circumstances:

1. Withdrawal of the complaint, unless where such termination is against GCC interest.
2. There is no sufficient evidence for the existence of dumping, injury or causal link between them to justify the continuation of an investigation.
3. When the dumping margin is *de minimis*. It shall be considered to be *de minimis* if the dumping margin is less than two percent (2%), expressed as a percentage of the export price.
4. If the volume of dumped imports of the product under investigation from a particular country is negligible i.e. less than three percent (3%) of the total imports of the product under investigation to GCC market, unless imports from all countries under investigation which individually account for less than three percent (3%) of the total imports of the product under investigation collectively account for more than seven (7%) percent of imports of the product under investigation to GCC market.

Section III Anti-dumping Measures

Article 36

1. The Permanent Committee may impose provisional measures if:
 - (a) An investigation has been initiated and public notice has been published in the Official Gazette;
 - (b) Interested parties have been given adequate opportunity to submit information and make comments; and
 - (c) A preliminary affirmative determination of dumping has been made and consequent injury to the GCC industry; and provisional measures are necessary to prevent injury being caused during the investigation. However, a preliminary negative determination of dumping does

not necessarily lead to terminating the investigation, but no provisional measures shall be imposed in such a case.

2. Provisional measures may take the form of a provisional customs duty or, preferably, a security -by way of cash deposit or bond- not greater than the dumping margin provisionally estimated. Provided that provisional measures shall not be applied sooner than 60 days from the initiation of the investigation.

3. The application of provisional measures shall be limited to as short a period as possible, not exceeding four (4) months and may be extended for further two (2) months upon request by exporters representing a significant percentage of the trade of the concerned product or upon no objection when notifying those exporters by the Technical Secretariat.

Article 37

1. Definitive anti-dumping measures shall be imposed by the Ministerial Committee; acting on a proposal submitted by the Permanent Committee and shall not be greater than the established margin of dumping.

2. Definitive anti-dumping duties are imposed on all sources found to be dumping and causing injury to the GCC industry, except for imports from those sources from which price undertakings have been accepted.

3. Where provisional anti-dumping measures are in force, a proposal for definitive action shall be submitted to the Ministerial Committee not later than thirty (30) days before the expiry of the provisional measures.

Article 38

1. An anti-dumping measure shall remain in force only as long as, and to the extent that, it is necessary to counteract the dumping which is causing injury.

2. A definitive anti-dumping measures shall expire not later than five (5) years from its imposition or, if earlier, five (5) years from the date of the conclusion of the most recent review that was initiated and addressed both the dumping and injury, unless it is determined in such a review that the expiry would be likely to lead to a continuation or recurrence of dumping and injury.

Section IV Price Undertakings

Article 39

1. Upon the approval of the Permanent Committee, an investigation may be suspended or terminated without the imposition of anti-dumping measures when the Technical Secretariat receives a satisfactory voluntary undertaking from any exporters, which eliminates the injurious effect of the dumping. Such undertakings shall take the following forms:

- (a) The commitment of an exporter to increase prices of the product under investigation into Member States in order to eliminate the dumping margin.
- (b) The commitment of an exporter to cease exports at dumped prices to Member States of the products under investigation.

2. Price undertakings shall not be sought or accepted from exports unless a preliminary affirmative determination of dumping, injury, and causal link has been made.

3. Undertakings offered need not be accepted if their acceptance is considered impractical, because the number of actual or potential exporters is too great, or for any other reasons, including reasons of general policy. Should the case arise and when practicable, the exporter shall be provided with the reasons that have led to a consideration that acceptance an undertaking

would be inappropriate and shall, to the extent possible, be given an opportunity to make written comments thereon.

4. Parties that offer an undertaking shall be required to provide a non-confidential version of such undertakings, so that it may be made available to interested parties of the investigation on request.

5. Undertakings may be suggested by the Technical Secretariat to exporters but no exporter shall be forced to enter into such undertakings. The fact that exporters do not offer such undertakings, or do not accept an invitation to do so, shall in no way prejudice the consideration of the case. However, it may be determined that a threat of injury is more likely to be realized if the dumped imports continue.

Article 40

1. Price increases under such undertakings shall not be higher than necessary to eliminate the margin of dumping. Price undertakings shall remain in force only as long as they are necessary to counteract the injurious effect of the dumping.

2. Where price undertakings are accepted, the investigation of dumping and injury shall nevertheless be completed if an exporter so desires or the Technical Secretariat so decides. In such a case:

- (a) If a negative determination of dumping or injury is made by the Permanent Committee, the price undertaking shall automatically lapse. Except in cases where such a determination is due in large part to the existence of such an undertaking. In such cases it may be required that an undertaking be maintained for a reasonable period consistent with the provisions of these Rules of Implementation.
- (b) In the event that an affirmative determination of dumping and injury is made by the Permanent Committee, the undertaking shall continue consistent with its terms and the provisions of these Rules of Implementation.

Article 41

1. Any exporter from whom undertakings have been accepted shall provide periodically to the Technical Secretariat information relevant to the fulfilment of such undertakings and shall permit verification of pertinent data. Failure to comply with such requirements shall be deemed to be a violation of the undertakings.

2. If it is noticed that the price undertaking is violated, a report may be submitted to the Permanent Committee to impose provisional duties in accordance with Article 36 of these Rules of Implementation on the basis of the best information available. In such a case, definitive anti-dumping duties may be retroactively levied on goods entered for consumption, from the date of violation, no more than ninety (90) days before the application of provisional measures.

3. If it is noticed that the price undertaking is violated by any exporter, the Permanent Committee may automatically apply the provisional and definitive duty which has been already imposed on other exporters provided that the exporter has been given an opportunity to comment and unless he has withdrawn the undertakings.

Section V Retroactivity

Article 42

1. Provisional measures and definitive anti-dumping duties shall only be applied to products imported for consumption from the date of imposition, subject to the exceptions in paragraph 2 of this Article, and Articles 44 and 45 of these Rules of Implementation.

2. The Ministerial Committee may, acting on a proposal submitted by the Permanent Committee, impose definitive anti-dumping duties retroactively for the period for which provisional measures have been applied, where:

- (a) A final determination of material injury has been made.
- (b) A final determination of threat of material injury has been made: where it is considered that the effect of the dumped imports would, in the absence of the provisional measures, lead to a determination of material injury.

Article 43

1. Where the definitive anti-dumping duty is higher than the provisional duty paid or payable, or the amount estimated for the purpose of security, the difference shall not be collected. If the definitive duty is lower than the provisional duty paid or payable, or the amount estimated for the purpose of security, difference shall be reimbursed or the duty recalculated.

2. Where a final determination is negative, any cash deposit made during the period of the application of provisional measures shall be refunded and any bonds released in an expeditious manner.

Article 44

Except as provided in paragraph 2(b) of Article 42, where a final determination of threat of material injury or material retardation has been made, but no injury has yet occurred, a definitive anti-dumping duty may be imposed only from the date of the final determination of a threat of material injury or material retardation of the establishment of a GCC industry.

Any cash deposit made during the period of the application of provisional measures shall be refunded and any bonds shall be released in an expeditious manner.

Article 45

A definitive anti-dumping duty may be levied on products which were entered to the Member States for consumption not more than ninety (90) days prior to the date of application of provisional measures but not prior to the date of initiation of the investigation provided that:

- (a) There is a history of dumping for the product under investigation prior to the period of investigation initiation or that the importer was, or should have been aware, that the exporter practices dumping and that such dumping would cause injury; and
- (b) The injury is caused by massive dumped imports of a product in a relatively short period of time which, in light of the timing and the volume of the dumped imports and other circumstances such as a rapid build-up of inventories of the imported product, is likely to seriously undermine the remedial effect of the definitive anti-dumping duty to be applied, provided that the importers concerned have been given an opportunity to comment.
- (c) The Permanent Committee may, after initiating an investigation, take such measures as the withholding of appraisal or assessment as may be necessary to collect anti-dumping duties retroactively, as provided in this Article, once it has sufficient evidence that the conditions set forth in this Article are satisfied.

Section VI Review of Anti-dumping Measures

Article 46

1. At any time and where warranted, the Permanent Committee may, on its own initiative, at the request of a Member State, or on a proposal of the Technical Secretariat review the need for continuing the imposition of the definitive anti-dumping duties. Any interested party may submit a written request to review the need for continuing the imposition of the definitive anti-dumping duties, provided that a reasonable period of time of at least one year has elapsed since the

imposition of the definitive anti-dumping duties, and shall contain positive information substantiating the need for such a review.

2. The Technical Secretariat shall publish a notice of the initiation of the review in the Official Gazette.

3. A proposal of actions shall be submitted by the Permanent Committee to the Ministerial Committee no later than thirty (30) days prior the expiration of the review deadline. The proposal should be as follows:

(a) A proposal shall be raised to the Ministerial Committee to repeal the anti-dumping measures immediately if the review determined that the imposition of anti-dumping duties is no longer warranted.

(b) To maintain or amend the anti-dumping measures if the review determined that dumping and/or injury would be likely to continue or recur if the measures were removed.

4. Any such review shall be carried out expeditiously and shall normally be concluded within twelve (12) months of the date of initiation of the review.

Article 47

1. If products exported to Member States are subject to definitive anti-dumping duties, a review shall also be carried out for the purpose of determining individual dumping margins for new exporters or producers in the exporting country in question that did not export the product to the GCC during the period of investigation, provided that these exporters or producers can show that they are not related to any of the exporters or producers in the exporting country that are subject to the anti-dumping duties.

2. No anti-dumping duties shall be levied on imports from such exporters or producers while the review is being carried out. However, the Permanent Committee may, upon a proposal of the Technical Secretariat, withhold appraisement custom or request guarantees to ensure that, should such a review result in a determination of dumping in respect of such producers or exporters, anti-dumping duties can be levied retroactively to the date of the initiation of the review.

3. Such a review shall be initiated and carried out on an accelerated basis and shall normally be completed within nine (9) months from its initiation and in any event no later than twelve (12) months of the date of initiation of the review.

Article 48

1. The Permanent Committee shall, on their own initiative, on a proposal of the Technical Secretariat, or upon a duly substantiated request made by or on behalf of GCC domestic industry, no later than three (3) months prior to the expiry of the duties, initiate a review to determine that the expiration of the duties would be likely to result in a continuation or recurrence of dumping and injury.

2. The anti-dumping duties remain in force until the end of the review.

3. A proposal of actions shall be submitted by the Permanent Committee to the Ministerial Committee not later than thirty (30) days prior the expiration of review deadline as follows:

(a) A proposal shall be raised to the Ministerial Committee to repeal the anti-dumping measures, if the review determined that the imposition of anti-dumping duties is no longer warranted.

(b) To maintain the anti-dumping measures, if the review determined that dumping and injury would be likely to continue or recur if the measure were removed.

4. Any such review shall be carried out expeditiously and shall be concluded within twelve (12) months of the date of initiation of the review.

5. In carrying out investigations, interested parties shall be provided the opportunity to amplify, rebut or comment on the matters set out in the expiry review, and conclusions shall be reached with due account taken of all relevant and duly documented evidence presented in relation to the question of whether the expiry of measures would be likely, or unlikely to lead to the continuation or recurrence of dumping and injury.
6. A notice of the initiation of the expiry review of anti-dumping measures shall be published in the Official Gazette.
7. Provisions of Articles 46, 47 and 48 shall be applied to price undertakings.

Chapter IV Subsidy and Countervailing Measures

Section I Determination of Subsidization

Article 49

A subsidy shall be deemed to exist if:

1. There is direct or indirect financial contribution, by the government of the country of origin or export or a public body, that confers a benefit to the recipient, i.e. where:
 - (a) Government practice involves a direct transfer of funds (e.g. grants and loans), or potential direct transfers of funds or liabilities (e.g. loan guarantees);
 - (b) Government revenue that is otherwise due is forgone or not collected (e.g. fiscal incentives such as tax (debit));
 - (c) A government provides goods or services other than public infrastructure, or purchases goods;
 - (d) A government makes payments to a funding mechanism, or entrusts or directs a private body to carry out one or more of the type of functions mentioned in (a) to (c) above which, would normally be vested in the government and the practice in no real sense, differs from practices normally followed by governments; or
2. Any form that would support income or price in the sense of Article XVI of GATT 1994.

Article 50

1. A subsidy, as defined in Article 49, shall be countervailable if such a subsidy is specific as defined in paragraphs 2, 3 and 4.
2. In order to determine whether a subsidy is specific to an enterprise or industry or group of enterprises or industries (hereinafter referred to as certain enterprises) within the jurisdiction of the granting authority, the following principles shall apply:
 - (a) Where the granting authority, or the legislation pursuant to which the granting authority operates, explicitly limits access to a subsidy to certain enterprises, such subsidy shall be specific;
 - (b) Where the granting authority, or the legislation pursuant to which the granting authority operates, establishes objective criteria or conditions governing the eligibility for a subsidy and its amount, specificity in this case shall not exist, provided that the eligibility is automatic and that such criteria and conditions are strictly adhered to;
 - (c) If, notwithstanding any appearance of non-specificity resulting from the application of the principles laid down in subparagraphs (a) and (b), there are reasons to believe that the subsidy may in fact be specific, other factors may be considered. Such factors are:

- Use of a subsidy program by a limited number of certain enterprises or predominant use by certain enterprises.
 - The granting authority gives disproportionately large amounts of subsidy to certain enterprises when compared with other enterprises, taking in consideration the diversification of economic activities within the jurisdiction of the granting authority, as well as of the length of time during which the subsidy program has been in operation.
3. A subsidy which is limited to certain enterprises located within a designated geographical region within the jurisdiction of the granting authority shall be specific, but the setting or change of generally applicable tax rates by all levels of government entitled to do so shall not be deemed to be a specific subsidy for the purpose of these Rules of Implementation.
4. Notwithstanding paragraphs 2 and 3, the following subsidies shall be deemed to be specific by their nature:
- (a) Subsidies contingent, in law or in fact, upon the level of exporting performance, whether solely or as one of several other conditions.
 - (b) Subsidies contingent whether solely or as one of several other conditions, upon the use of domestic over imported goods.

Section II Calculation of the Amount of the Countervailable Subsidy

Article 51

The amount of subsidy shall be calculated based on the following rules:

1. Determine the total subsidy amount received by the recipient foreign producer or exporter from the subsidy or program in question and the portion of the total subsidy amount that is received during period of investigation.
2. Determine the individual amount of subsidization for each known foreign producer or exporter for the product under investigation.
3. Taking into consideration paragraph 2 of this Article, where in case the number of exports, producers, importers or types of products involved or trade transactions is so large as to make it impracticable to determine an individual subsidy amount for each known foreign producer or exporter concerned of the product under investigation, the Technical Secretariat may limit its examination to a reasonable number of interested parties or products or trade transactions by using samples which are statistically valid on the basis of information available at the time of the selection, or to the largest percentage of production volume, sales or exports which can reasonably be investigated within the time available.
4. Deduct from the amount of calculated subsidy any application fee, other costs incurred in order to qualify for, or to obtain the subsidy, or export taxes, duties or other charges levied on the export of the product under investigation to the Member States.
5. The amount of the subsidy shall be calculated per unit of the product under investigation exported to the Member States.

Article 52

The amount of subsidy received by the recipient shall be calculated in terms of the benefit conferred on the recipient.

As regards the calculation of benefit to the recipient, the following rules shall apply:

1. Government provision of equity capital shall not be considered to confer a benefit, unless the investment can be regarded as inconsistent with the usual investment practice (including for the provision of risk capital) of private investors in the exporting country;
2. Loans provided by a foreign government shall not be considered to confer a benefit, unless there is a difference between the amount that the firm receiving the loan pays on the government loan and the amount that the firm would pay for a comparable commercial loan that the firm could actually obtain on the market. In that event, the benefit shall be the difference between these two amounts;
3. Loans guarantee by a foreign government shall not be considered to confer 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 for a comparable commercial loan in the absence of the government guarantee. In this case the benefit shall be the difference between these two amounts, adjusted for any differences in fees;
4. The provision of goods or services or purchase of goods by a government shall not be considered to confer 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 product or service in question in the country of export or purchase including price, quality, availability, marketing, transporting and other sales and purchasing conditions.

Section III Determination of Injury

Article 53

A determination of GCC material injury shall be based on an objective examination of all of the positive evidence of the following:

1. The volume of the subsidized imports and its effect on prices in the GCC market for like products which would be indicated by assessing the following factors:
 - (a) With regard to the volume of the subsidized imports, consideration shall be given to whether there has been a significant increase in subsidized imports, either in absolute terms or relative to production or consumption in the GCC Member States.
 - (b) With regard to the effect of the subsidized imports on prices in the GCC market for like products, consideration shall be given to whether:
 - There has been a significant price undercutting by subsidized imports as compared with the price of a domestic like products.
 - The effect of such imports is to depress prices to a significant degree; or
 - Preventing the like products prices from increase, which would otherwise have occurred, if such imports does not exists.

No one or combination of the factors identified in paragraph 1 of this Article can necessarily give decisive guidance.

2. The impact of the subsidized imports on the GCC industry concerned, through evaluation of all relevant economic factors and indices that have a bearing on the state of the industry, including:
 - (a) Actual and potential decline in sales, profits, outputs, market share, productivity, return on investments, or utilization of capacity;
 - (b) Factors affecting GCC prices; actual and potential negative effects on cash flow, inventories, employment, investment, wages, growth, ability to raise capital; and

- (c) In case of agriculture, whether there has been an increased burden on government support programs.

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

3. The effect of the subsidized imports shall be assessed in relation to the domestic production of the GCC industry of the like product when available data permit a separate identification of that production on the basis of such criteria as the production process, producers' sales and their profits. If separate identification of production is not possible, assessment of subsidized imports' impacts shall be made by searching in the nearest group or range of products, that includes the like product, where necessary data can be found.

Article 54

1. A determination of a threat of material injury on the concerned GCC industry shall be based on facts and not merely on allegations, conjecture or remote possibilities and an assessment that such injury is clearly foreseen and imminent. Taking into consideration the following factors:

- (a) Nature of the subsidy in question and trade effects likely to arise therefrom;
- (b) A significant rate of increase of subsidized imports into the GCC market indicating the likelihood of substantially increased importation;
- (c) Sufficient freely disposable capacity of the exporter or an imminent, substantial increase in such capacity indicating the likelihood of substantially increased subsidized exports to the GCC market, taking into account the availability of other export markets to absorb any additional exports;
- (d) Whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for more imports; and
- (e) Inventories of products under investigation.

2. Other relevant factors supported by sufficient evidence may be taken into consideration, however no one of these factors listed above by itself can necessarily give decisive guidance, but the totality of the factors considered must lead to the conclusion that further subsidized exports are imminent and that, unless protective action is taken, material injury will occur.

Article 55

1. It must be demonstrated, from all the relevant evidence presented in relation to injury, that the subsidized imports are causing injury to the GCC industry concerned.

2. Known factors other than the subsidized imports, which at the same time are injuring the concerned GCC industry, shall also be examined and the injuries caused by these other factors must not be attributed to the subsidized imports. Factors which may be relevant in this respect include, inter alia:

- (a) The volume and prices of non-subsidized imports;
- (b) Contraction in demand or changes in the patterns of consumption;
- (c) Commercial restrictions and competition between GCC and foreign producers;
- (d) Developments in technologies; and
- (e) The export performance and productivity of the GCC industry.

Article 56

In determination of injury caused by subsidized imports from more than one country, the effect of such imports shall be cumulatively assessed only if it is determined that:

1. The amount of subsidization established in relation to the imports from each country is more than *de minimis*;
2. The volume of subsidized imports from each country is not negligible; and
3. 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 competition between the imports and the like GCC product.

Article 57

A recommendation of immediate termination of the investigation shall be made without imposing any measures in the following conditions:

1. Withdrawal of the complaint unless such termination is not in the interest of GCC Member States.
2. There is no sufficient evidence for the existence of subsidy, injury, or causal link between them to justify the continuation of an investigation.
3. When the amount of subsidy is *de minimis*, *i.e.* less than one percent (1%) *ad valorem* and in case of a subsidy from a developing country, the overall level of subsidies granted upon the product in question does not exceed two percent (2%) of its value calculated on a per unit basis;
4. There shall be immediate termination of the investigation, where the volume of subsidized imports, actual or potential is negligible.

In cases of subsidized imports from a developing countries, imports shall be considered to be negligible if the volume of the subsidized imports represents less than four percent (4%) of the total imports of the product under investigation in the GCC countries, unless imports from developing countries whose individual shares of total imports represent less than four per cent (4%) collectively account for more than nine percent (9%) of the total imports of the product under investigation in the importing GCC Member States.

In cases of subsidized imports from developed countries, imports shall be considered to be negligible if the volume of the subsidized imports represents less than one percent (1%) of the total imports of the product under investigation in the GCC countries, unless imports from developed countries whose individual shares of total imports represent less than one percent (1%) collectively account for more than three percent (3%) of the total imports of the product under investigation in the importing GCC Member States.

Section IV Countervailing Measures

Article 58

1. The Permanent Committee may impose provisional measures if:
 - (a) An investigation has been initiated and a public notice has been published in the Official Gazette;
 - (b) Interested parties have been given adequate opportunities to submit information and make comments; and
 - (c) A preliminary affirmative determination has been made that a subsidy exists and that there is injury to a GCC industry caused by subsidized imports; and that provisional measures are necessary to prevent injury being caused during the investigation. However, a preliminary negative determination of existence of subsidy does not necessarily lead to termination of an investigation, but no provisional measures shall be imposed in such a case.
2. Provisional measures may take the form of a provisional customs duty, or preferably, a security -by cash deposit or bonds- not greater than the subsidy amount provisionally estimated.

Provided that provisional measures shall not be applied sooner than sixty (60) days from the initiation of the investigation.

3. The application of provisional measures shall be limited to as short a period as possible, not exceeding four (4) months.

Article 59

1. Definitive countervailing duties shall be imposed by the Ministerial Committee; acting on a proposal submitted by the Permanent Committee and shall not be greater than the amount of the countervailable subsidy established.

2. Definitive countervailing duties are imposed on imports from all sources found to be subsidized and causing injury to the GCC industry, except in respect of imports from those sources from which price undertakings have been accepted.

3. Where provisional countervailing measures are in force, a proposal for definitive action shall be submitted to the Ministerial Committee not later than thirty (30) days before the expiry of the provisional measures.

Article 60

1. Countervailing measures shall remain in force only as long as, and to the extent that, it is necessary to counteract the subsidy which is causing injury.

2. Definitive countervailing measures shall expire not later than five (5) years from its imposition or five (5) years from the date of the conclusion of the most recent review that was initiated and addressed both the subsidy and injury, unless it is determined in such a review that the expiry would be likely to lead to a continuation or recurrence of subsidy and injury.

Section V Price undertakings

Article 61

1. Upon the approval of the Permanent Committee, an investigation may be suspended or terminated without the imposition of countervailing measures after the Technical Secretariat receives satisfactory voluntary undertakings from exporters, leading to the elimination of the injurious effect of the subsidy. Such undertakings shall take the following forms:

- (a) The government of the exporting country agrees to eliminate or limit the subsidy or take other measures concerning its effects;
- (b) The exporter undertakes to revise its prices so that the injurious effect of the subsidy is eliminated.

2. Price undertakings shall not be sought or accepted unless a preliminary affirmative determination of subsidization and injury that has been made.

3. Undertakings offered need not be accepted if their acceptance is considered impractical, for example, if the number of actual or potential exporters is too great, or for other reasons, including reasons of general policy. Should the case arise and where practicable, the exporter shall be provided with the reasons that have led to consider the undertaking is inappropriate and shall be given an opportunity to make comments thereon.

4. Parties that offer an undertaking shall be required to provide a non-confidential version of such undertakings, so that it may be made available to interested parties upon request.

5. Undertakings may be suggested by the Technical Secretariat to exporters but no exporter shall be forced to enter into such undertakings. The fact that exporters do not offer such undertakings or do not accept an invitation to do so, shall in no way prejudice the consideration of

the case. However, the Technical Secretariat shall be free to determine that a threat of material injury is more likely to be realized if the subsidized imports continue.

Article 62

1. Price increases under such undertakings shall not be higher than necessary to eliminate the amount of the subsidy. Price undertakings shall remain in force as long as they are necessary to eliminate the injurious effects of the subsidy.
2. Where price undertakings are accepted, the investigation of subsidization and injury shall nevertheless be completed if an exporter so desires or the Technical Secretariat so decides.

In such a case:

- (a) If a negative determination of subsidization or injury is made by the Permanent Committee, the price undertaking shall automatically lapse, except in cases where such a determination is due in large part to the existence of such undertaking. In such cases, it may be required that an undertaking be maintained for a reasonable period consistent with the provisions of these Rules of Implementation.
- (b) In the event that an affirmative determination of subsidy and injury is made by the Permanent Committee, the undertaking shall continue consistent with its terms and the provisions of these Rules of Implementation.

Article 63

1. Exporter or governments of exporting countries from whom undertakings have been accepted shall periodically provide to the Technical Secretariat information relevant to the fulfilment of undertaking and shall permit verification of pertinent data. Failure to comply with such requirements shall be deemed to be a violation of the undertakings.
2. If it is noticed that the price undertaking is violated, a report may be submitted to the Permanent Committee to impose provisional duties in accordance with Article 58 of these Rules of Implementation on the basis of the best information available. In such a case, definitive countervailing duties may be retroactively levied on goods entered for consumption, from the date of violation, but no more than ninety (90) days before the application of provisional measures.
3. If it is noticed that the price undertaking is violated by any exporter, the Permanent Committee may automatically apply the provisional and definitive duty which has been already imposed on other exporters provided that the exporter has been given an opportunity to comment and unless he has withdrawn the undertakings.

Section VI Retroactivity

Article 64

1. Provisional measures and definitive countervailing duties shall only be applied to products that enter for consumption from the date of imposition, subject to the exceptions in paragraph 2 of this Article and Articles 66 and 67 of these Rules of Implementation.
2. The Ministerial Committee may, acting on a proposal submitted by the Permanent Committee, impose definitive countervailing duties retroactively for the period for which provisional measures have been applied, where:
 - (a) A final determination of material injury has been made.
 - (b) A final determination of threat of material injury has been made, where it is considered that provisional measures, have led to a determination of material injury.

Article 65

1. Where the definitive countervailing duty is higher than the provisional duty paid or payable, or the amount estimated for the purpose of security, the difference shall not be collected. If the definitive duty is lower than the provisional duty paid or payable, or the amount estimated for the purpose of security, difference shall be reimbursed or the duty recalculated.
2. Where a final determination is negative, any cash deposit made during the period of the application of provisional measures shall be refunded and any bonds released in an expeditious manner.

Article 66

Except as provided in paragraph 2(b) of Article 64, where a final determination of threat of material injury or material retardation has been made, but no injury has yet occurred, a definitive countervailing duty may be imposed only from the date of the final determination of threat of material injury or material retardation. Any cash deposit made during the period of the application of provisional measures shall be refunded and any bonds shall be released in an expeditious manner.

Article 67

A definitive countervailing duty may be levied on products which were entered GCC Member States for consumption not more than ninety (90) days prior to the date of application of provisional measures but not prior to the date of the initiation of the investigation, provided that:

- (a) Injury which is difficult to repair is caused by massive imports in a relatively short period of a product benefiting from subsidies paid or bestowed according to the provisions of these Rules of Implementation; and
- (b) It is deemed necessary, in order to preclude the recurrence of such injury, to assess countervailing duties retroactively on those imports.

Section VII Review of Countervailing Measures

Article 68

1. At any time and where warranted, the Permanent Committee may, on its own initiative, at the request of a Member State, or on a proposal of the Technical Secretariat review the need for continuing the imposition of the definitive countervailing duties. Any interested party may submit a written request to review the need for continuing the imposition of the definitive countervailing duties, provided that a reasonable period of time of at least one year has elapsed since the imposition of the definitive countervailing duties, and that the request contains positive evidence substantiating the need for such a review.
2. The Technical Secretariat shall publish a notice of the initiation of the review in the Official Gazette.
3. A proposal of actions about the results of the review shall be submitted by the Permanent Committee to the Ministerial Committee not later than thirty (30) days prior the expiration of the review deadline as follows:
 - (a) A proposal shall be raised to the Ministerial Committee to repeal the countervailing measures if the review determined that the imposition of the countervailing duties is no longer warranted.
 - (b) To maintain or amend the countervailing measures if the review determined that subsidy and/or injury would be likely to continue or recur if the measures were removed.
4. This review shall be carried out expeditiously and shall normally be concluded within 12 months of the date of initiation of the review.

Article 69

1. In cases where products subjects to definitive countervailing duties were exported to GCC member State, a review shall also be carried out expeditiously for the purpose of determining individual dumping margins for new exporters or producers in the exporting country in question, which did not export the product to the GCC during the period of investigation, provided that these exporters or producers can show that they are not related to any of the exporters or producers subject to the countervailing duties.
2. No countervailing duties shall be levied on imports from such exporters or producers while the review is being carried out. However, the Permanent Committee may, upon a proposal of the Technical Secretariat, withhold appraisement custom or request guarantees to ensure that, should such a review result in a determination of the amount of subsidy relating to such producers or exporters, countervailing duties can be levied retroactively to the date of the initiation of the review.
3. Such a review shall be carried out on an accelerated basis and shall normally be completed within nine (9) months from its initiation and in any event no later than twelve (12) months of the date of initiation of the review.

Article 70

1. The Permanent Committee shall, on its own initiative, on a proposal of the Technical Secretariat, or upon a duly substantiated request made by or on behalf of GCC domestic industry, no later than three (3) months prior to the expiry of the duties, initiate a review to determine that the expiration of the duties would be likely to result in a continuation or recurrence of subsidy and injury.
2. The countervailing duties remain in force pending the outcome of such a review.
3. A proposal of actions shall be submitted by the Permanent Committee to the Ministerial Committee not later than thirty (30) days prior the expiration of the review deadline as follows:
 - (a) A proposal shall be raised to the Ministerial to repeal the countervailing measures, if the review determined that the imposition of countervailing duties is no longer warranted.
 - (b) To maintain the countervailing measures, if the review determined that the subsidy and injury would be likely to continue or recur if the measures were removed.
4. This review shall be carried out expeditiously and shall normally be concluded within twelve (12) months of the date of initiation of the review.
5. In carrying out investigations, interested parties shall be provided the opportunity to amplify, rebut or comment on the matters set out in the expiry review, and conclusions shall be reached with due account taken of all relevant evidence presented in relation to the question of whether the expiry of measures would be likely, or unlikely to lead to the continuation or recurrence of subsidy and injury.
6. A notice of the initiation of the expiry review of countervailing measures shall be published in the Official Gazette.
7. Provisions of Articles 68, 69 and 70 shall be applied to price undertakings.

Chapter V
Safeguard Measures Against the Increase of Imports

Section I
Determination of Injury

Article 71

1. A safeguard measure may be applied to a product being imported irrespective of its source, if it is established that such product is being imported in such increased quantities, absolute or relative to Member States production, and under such conditions as to cause or threaten to cause a serious injury to the GCC industry that produced like or directly competitive products.
2. A determination of whether the increase of imports has caused or are threatening to cause serious injury to the GCC industry shall be based on objective evidence and facts and an existence of a causal link between increased imports and serious injury or threat thereof, and by the evaluation of all relevant, objective and quantifiable factors having a bearing on the situation of the GCC industry, taking into consideration the following factors:
 - (a) The ratio and volume of increase in imports of the product under investigation, in absolute or relative terms to GCC production.
 - (b) The impact of such increased imports on the GCC industry, including: sales level, production, productivity, capacity utilization, inventory, profits, losses, labors and market share.
3. The existence of the causal link between the increased imports of the product under investigation and serious injury or threat thereof shall be established. When factors other than increased imports are causing injury to GCC industry at the same time, such injury shall not be attributed to increased imports.

Article 72

1. A determination of a threat of serious injury on the GCC industry because of the increased imports shall be based on facts and not merely on allegation, conjecture or remote possibility and an examination of whether such injury is clearly foreseen and imminent.
2. When determining a threat of serious injury, the following factors shall be taken into consideration:
 - (a) The rate of increase of imports into the GCC market indicating the likelihood of substantially increased imports;
 - (b) Sufficient freely disposable capacity in the exporting countries or an imminent, substantial increase in such capacity indicating the likelihood of substantially increased exports to the GCC market;
 - (c) The availability of other export markets, excluding the GCC market, that absorb any additional exports;
 - (d) Any other factors deemed relevant.

Section II
Application of Safeguard Measures

Article 73

When there are critical circumstances, the Permanent Committee, upon a recommendation from the Technical Secretariat, may adopt provisional safeguard duties, if it is determined that the product under investigation is being imported in such increased quantities, absolute or relative to production, and under such conditions as to cause or threaten to cause serious injury to the GCC industry and that the delay in taking action would cause damage that would be difficult to repair.

Article 74

A provisional safeguard duty shall take the form of tariff increases and take into account the following:

1. Provisional safeguard duties shall be applied for no more than two hundred (200) days, during which the pertinent requirement of the safeguard investigation according to these Rules of Implementation shall be fulfilled.
2. Any amount collected as a provisional safeguard duty shall be promptly refunded, if the subsequent investigation does not result in a determination that increased imports have caused or threaten to cause serious injury to the GCC industry.

Article 75

1. The Permanent Committee, upon the Technical Secretariat conclusions that the absolute or relative increase of the imports of the product under investigation caused or threaten to cause serious injury to the GCC industry, may recommend to the Ministerial Committee to apply a definitive safeguard measure in the form of quantitative restriction and/or increase in customs duties or any other measures, taking into consideration that the definitive safeguard measure shall be applied to the extent necessary to prevent or remedy the serious injury caused or threaten to be caused to the GCC industry.

2. If a quantitative restriction is used, the determined quantities shall not be less than the average of imports in the last three (3) representative years for which statistics are available, unless clear justification is given that a different level is necessary to prevent or remedy serious injury in GCC industry.

3. In cases in which a quota is allocated among countries having a substantial interest in exporting the product under investigation, an agreement may be reached with these countries to share these quotas.

4. In cases in which the method mentioned in the preceding paragraph is not reasonably practicable, the quotas allocation shall be based upon the proportions, imported from such countries during a previous representative period, of the total quantity or value of imports of the product under investigation and due account shall be taken of any special factors which may have affected or may be affecting the trade in the product under investigation.

5. In cases in which serious injury has been found, and not a threat of serious injury, the allocation of the quotas may be made on different bases than those envisaged under paragraphs 3 and 4 above, provided that consultations are conducted under the auspices of the WTO Committee on Safeguards and that clear demonstration is provided to the Committee that:

- (a) Imports from certain countries have increased in a disproportionate percentage to the total increase in imports of the investigated products during the representative period;
- (b) The reasons for the departure from the methodology of quota allocation envisaged under paragraph 3 and 4 above are justified; and
- (c) The conditions of such departure are equitable to all suppliers of the product under investigation. Such measures shall not be extended beyond the initial period in accordance with Article 77.

Article 76

Safeguard measures shall not be applied against any product originating in a developing country Member of the WTO as long as its share of imports of the product under investigation in the GCC market does not exceed three percent (3%), and provided that developing countries with less than three percent (3%) import share collectively account for no more than nine percent (9%) of the total imports of the product under investigation.

Section III Duration of Definitive Safeguard Measures

Article 77

1. The definitive safeguard measures shall be applied for a period of no more than four (4) years, and they may be extended to ten (10) years. The total period of measures application should include the period of application of any provisional measures, the period of initial application, and any extension applied in accordance with these Rules of Implementation.
2. No safeguard measure shall be applied again to the import of a product which has been subject to such a measure unless a period of time equal to half of the duration of such earlier measure has elapsed, provided that the period of non-application is at least two (2) years.
3. Notwithstanding the provision of paragraph 2 above, a safeguard measure with a duration of one hundred and eighty (180) days or less may be applied again to the imports of a product which was the subject of an earlier safeguard measure if:
 - (a) At least one year has elapsed since the date of the imposition of the earlier safeguard measure on the imports of that product; and
 - (b) Such safeguard measure has not been applied on the same product more than twice in the five (5) years period immediately preceding the date of introduction of the new safeguard measure.

Article 78

1. Extending the application of the definitive safeguard measures shall depend on the result of a new investigation conducted in accordance of the same provisions set forth in Chapters 2 and 5 of these Rules of Implementation that demonstrates that the continuation of the safeguard measures is necessary to prevent or remedy serious injury, and that there is evidence that the GCC industry is adjusting.
2. A definitive safeguard measure for which the period of application exceeds one year shall be progressively liberalized at regular intervals during the period of application. If the duration of the measure exceeds three (3) years, the situation shall be reviewed not later than the mid-term of the application of the measure, and if appropriate, it should be withdrawn or its pace of liberalization increased.

Article 79

Where the trend in imports of a product threatens to cause injury to GCC producers of the like or directly competitive products, imports of that product may be subject as appropriate to a surveillance procedure carried out in accordance with procedures fixed by the Permanent Committee.

Chapter VI General Provisions

Article 80

The Permanent Committee may on a recommendation of the Technical Secretariat issue a notice of initiation of a new investigation or review of the measures being imposed if it found circumvention taking place which undermined the effectiveness of these measures.

Article 81

Measures imposed in accordance with this Common Law and its Rules of Implementation shall be applied on imported products into any Member State that have issued customs declaration, and any investigation procedures stated in the Common Law and its Rules of Implementation shall not prevent customs clearance for imports of a product simply because it is subject to investigation.

Article 82

In cases where same product is involved in anti-dumping and anti-subsidy investigations simultaneously, that product shall not be subject to both anti-dumping and countervailing duties to compensate for the same situation of dumping or subsidization.

Article 83

1. Collected definitive duties shall be treated in accordance with this Common Law and its Rules of Implementation by the Member States in the same way as customs duties.

2. Provisional duties shall be treated as deposit in the Member States until the end of investigation and final determinations has been reached, provisional duties will be refunded in accordance with the provisions of Articles 43, 65 and 74 of these Rules of Implementation.

3. The relevant authorities of the Member States shall periodically provide the Technical Secretariat with a statistical statement of the value of the collected duties.

Article 84

The Technical Secretariat shall provide notifications required under the WTO agreements relating to anti-dumping, subsidy and countervailing measures, and safeguard measure in accordance with the relevant provisions of such agreements through the presidency of the Member States.

Article 85

The provisions of the WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, the WTO Agreement on Subsidies and Countervailing Measures and WTO Agreement on Safeguards shall be applied on matters which are not stated in these Rules of Implementation.

Article 86

The Technical Secretariat issues an Official Gazette where it publishes all publications required under this Common Law and its Rules of Implementation.

Article 87

These amendments of the Rules of Implementation shall enter into force from the date of its approval by the Ministerial Committee.
