

# WORLD TRADE ORGANIZATION

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**Committee on Anti-Dumping Practices**

Original: English

**Committee on Subsidies and Countervailing Measures**

**Committee on Safeguards**

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

### ISRAEL

The following communication, dated 28 June 1995, has been received from the Permanent Mission of Israel.

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With reference to the provisions of Article 18.5 of the Agreement on 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, please find enclosed a non-official copy of the TRADE LEVIES LAW (5751-1991) of Israel.

The Government of Israel has undertaken a review of the relevant parts of this law to ensure its consistency with the WTO Agreements.

## **TRADE LEVIES LAW, 5751 - 1991**

### **Chapter One - Definitions**

- Definition      1.    In this Law -
- "committee" - the advisory committee appointed under section 6;
- "Commissioner" - the person appointed by the Minister under section 5;
- "director" - the Director of Customs and Value Added Tax, or a person authorized by him;
- "importer" of goods - as in the definition of "owner" in respect of goods in the Customs Ordinance, including anyone for whom a bill of entry has been allowed for use of the goods in Israel;
- "production" includes agricultural production;
- "producer" includes a grower, and includes a person who has begun to set up a productive enterprise;
- "possessor of goods" - any person in possession or in control of goods used or intended to be used by him for supply, production or the provision of services, whether or not he owns those goods;
- "foreign currency" - as defined in the Foreign Currency Control Law 5378-1978;
- "dealer" - as defined in the Value Added Tax Law 5736-1975 (hereinafter: VAT law);
- "value" -
- (1)    in respect of imported goods - their value for customs purposes, as defined in the Customs Ordinance;
- (2)    in respect of exported goods and goods held as stock - their price from a willing seller to a willing buyer and the plant's gate;
- "the Minister", notwithstanding the provision of any enactment, for purposes of chapters two and four - any Minister within the field of his competence, and in respect of the other provisions of this law - the Minister of Industry and Trade.

### **Chapter Two - Safeguard Levy**

- Safeguard      2.    The Minister May - and in respect of paragraphs (1), (2), (6) and (7) he may  
levy              jointly with the Minister of Finance - impose by order levies on the import of goods to Israel, on the export of goods from Israel, on the possession of goods or on

the provision of services (in this law: safeguard levy), if he is of the opinion that the levy is needed for one or more of these purposes, as he shall specify in the order:

- (1) to prevent deterioration of Israel's balance of payments or foreign currency reserves;
- (2) to regulate production, demand or consumption of agricultural and fishery products, including the prevention of surpluses or of depressed prices for such produce;
- (3) to protect local production against substantial injury caused or liable to be caused to it by competing imports, taking into account benefits derived by the economy from the import; for this purpose, "substantial injury" - also resulting from differentials in the cost of agricultural components in imported food products, compared to their cost in food products of local manufacture.
- (4) to prevent the exhaustion of mineral deposits;
- (5) to restrict or prevent the export of raw materials produced or mined in Israel in order to prevent shortages in the local market, or to regulate the price of the said raw materials; "raw materials" - including minerals, as defined in the Mining Ordinance, materials enumerated in the definition of "quarry" in section 108 of the Mining Ordinance, goods that only underwent initial processing and are intended to be used as components in the production of other products, unprocessed farm produce, and scrap metals;
- (6) to absorb or prevent excess profit due to a legislative provision or from an economic step taken by the government or one of its Ministers; "excess profit" - the difference between the price obtained, or which could have been obtained by the possessor of goods for those goods in the open market, and the price he actually paid for the goods, plus expenses and reasonable profit;
- (7) to absorb assistance or benefits conferred by the government in respect of goods intended to be used in Israel, but which actually were exported;
- (8) to adopt economic countermeasures against any state, which violated an agreement or arrangement with the State of Israel;
- (9) to restrict or prevent import from any country that prohibits or restricts trade with Israel, or which takes discriminatory steps against it, or to restrict or prevent export to a said country.

(b) A safeguard levy may be general, for a category of goods, or for certain goods, for a certain dealer or category of dealers, or for the import of goods from certain countries or certain suppliers, or for a certain shipment of goods.

(c) The amount of the safeguard levy shall be equivalent to the proportion of goods' value or a fixed sum or a proportion of the excess profit, or according to any other calculation, all as prescribed by the Minister by order.

(d) An order, which imposes a safeguard levy, shall be in effect for a period of not more than two years, but the Minister may reimpose the levy or extend its effect by order, as long as it is required for one of the purposes enumerated in subsection (a).

Liable to levy 3. The following are liable for the levy:

- (1) on imports - the importer;
- (2) on exports - the exporter;
- (3) on the possession of goods - the possessor;
- (4) on the provision of services - whoever provides the service.

### **Chapter Three - Anti-Dumping Duty and Countervailing Duty**

#### **Title One: Definitions**

Definitions 4. In this chapter -

"parties to proceedings" - the complainant, the importer or person summoned by the Commissioner or by the committee chairman to be party to the committee's deliberations;

"identical or similar goods" goods equal to in all their characteristics, form and quality, or goods similar in their main characteristics and purpose;

"export price" - the price actually paid or to be paid for goods sold for export, less the amount of benefit incorporated in credit arrangements or other arrangements made in respect of the consideration;

"production costs" - including fixed expenses, variable expenses, overhead and reasonable profit.

#### **Title Two: Advisory Committee**

Commissioner 5. The Minister shall appoint a Commissioner for purposes of the provisions of this chapter.

Advisory committee 6. (a) The Minister shall, together with the Minister of Finance (hereinafter: the Ministers) appoint an advisory committee of seven members;

(b) The committee members shall be -

- (1) three representatives of the public appointed by the Ministers, one of whom shall be the committee chairman;
- (2) two staff members of the Ministry of Industry and Trade, one of whom may be the Commissioner;
- (3) a staff member of the Ministry of Finance, recommended by the Minister of Finance;
- (4) a staff member of the Ministry of Agriculture, recommended by the Minister of Agriculture.

(c) When dealing with any complaint, the subject of which is within the scope of activity of a Ministry that is not represented on the committee, a representative of that Ministry - appointed by the Minister responsible for that Ministry - shall be coopted as an additional committee member; in this case, the additional committee member shall take the place of the representative of the Ministry of Agriculture.

(d) The committee chairman shall be a jurist; committee members shall be knowledgeable and experts in economics and foreign trade.

(e) The committee shall be first appointed within 30 days of the day on which this law is adopted by the Knesset; thereafter, committee members shall be appointed under this section within 30 days after a vacancy occurs.

(f) Compensation and expenses shall be paid to the committee chairman and to the other representatives of the public, in a manner to be prescribed by the Ministers in regulations.

Committee deliberations 7. (a) Three committee members, including the committee chairman, constitute a quorum.

(b) (1) A committee member who represents the public shall not participate in committee deliberations, if he has a personal interest in the matter before it.

(2) A committee member who represents the public shall not participate in committee deliberations, if his other business are liable to create a conflict of interest with the matter before it.

(c) The Minister shall prescribe the committee's work procedures; the committee itself shall decide on its procedures, as far as they have not been prescribed by this law or by the Minister.

Confidential information 8. (a) No use shall be made of confidential information, which reaches the Commissioner or the committee under this law, except for the implementation of its objectives.

(b) Should the Commissioner determine that there are *prima facie* grounds for a complaint as stated in section 18, then the parties to the proceedings before the

committee may study the complaint, as well as any other material delivered to the Commissioner or to the committee, except for information which - at the request of the person who delivered it - is determined to be confidential.

(c) For purposes of this section, information of which the disclosure would cause damage to the person who delivered it or to a third party, shall be deemed confidential.

(d) Any person who delivers information to the Commissioner or to the committee may request them to determine that certain information delivered by him is confidential; the committee may change the Commissioner's determination, either at the request of the person who delivered the information or at its own initiative.

(e) Should the Commissioner or the committee find that the information is not confidential, they shall inform the person who delivered the information accordingly, and he may demand that the material not be used in the committee's deliberations and that it be returned to him.

(f) Notwithstanding any provision of this section, the committee may include in its reasons general information derived from the confidential information entrusted to it, but this must not cause injury to the person who delivered the information to a third party.

Secret  
deliberations  
Experts

9. The committee's deliberations shall be behind closed doors.

10. The chairman of the committee may, at his own discretion, invite experts to the committee's deliberations.

### **Title Three: Dumped or Subsidized Imports**

Dumped  
import defined

11. Dumped import is the import of goods at an export price that is lower than ~~the~~ normal price.

Normal price  
and its  
determination

12. (a) The normal price of goods is the price - in the ordinary course of business - of identical or similar goods intended for local consumption in the country in which they were produced; for this purpose, a sale shall not be deemed as being in the ordinary course of business when it is between parties between whom there is an arrangement or a special connection, including an arrangement or a special connection, including an arrangement or connection between a producer and a body corporate under his control.

(b) If identical or similar goods are not sold in the ordinary course of business in the country of production, or if market conditions in that country do not allow a suitable comparison of sales in order to determine the normal price, then the normal price shall be deemed as -

(1) the highest price of identical goods exported to a third country in the course of ordinary business;

and if there is no such price, -

(2) the total cost of producing identical goods in the country of production, plus reasonable profit.

(c) In the absence of data regarding the normal price, as stated in subsections (a) and (b), then the normal price shall be determined according to the price in the ordinary course of business of identical goods intended for local production in another state, taking into consideration the different conditions that affect that matter in that state.

(d) If the price of identical or similar goods intended for local consumption in the country of production are lower than the cost of producing the goods in that country, that shall not be considered a price in the ordinary course of business, and the normal price shall be determined as said in subsections (b) or (c).

(e) If the country in which the goods were produced, is one in which the price of goods for local consumption and for export is influenced by governmental intervention in trade - whether by training by the government itself or through bodies corporate over which the government exerts influence - then the normal price shall be determined as -

(1) the sale price of identical or similar goods for local consumption in a third country, in which the prices of goods are not influenced as aforesaid (hereinafter: market economy) or the export price of those goods from that country, or the total production costs of identical or similar goods in a country with a market economy;

and in the absence of price data as aforesaid,

(2) the price actually paid on the local market in Israel for identical or similar goods.

(f) If the goods were not imported directly from the country in which they were produced, then the normal price of those goods shall be their normal price in the country of export: however, the Commissioner or the committee may prescribe that the normal price shall be the price of goods in the country of production.

Transactions under special arrangement 13. Should goods be imported regarding which there is a special arrangement or connection between the importer and the supplier which affects the export price, or according to which discounts or refunds are made out of the consideration for the goods entered in the import document, or if there is any other arrangement capable of affecting the price of the transaction - whether directly or indirectly, in cash or in kind - then the export price shall be calculated on the basis of the price at which the seller sold the same goods to a willing buyer, and if said data are not available, then the export price shall be calculated on a reasonable basis, as the committee shall prescribe.

Rules for price equalization 14. For purposes of equalizing the export price to the normal price, the prices shall be equalized under similar commercial conditions, taking into account different terms

of sale, including differences in indirect taxes, as well as any other factor likely to affect the equalization.

Subsidized import 15. Subsidized import is import, when the exporter or producer in the country of production enjoy direct or indirect subsidization from the government of that country, or from a body under that government's influence.

#### **Title Four: Complaints and Their Treatment**

Complaint of dumped or subsidized import 16. The producer of a certain product or his representative, as well as the Director General of the Ministry of Industry and Trade, may submit to the Commissioner a written complaint, that identical or similar goods have been or are about to be imported under conditions of dumped or subsidized imports, and that this consequently will, or is liable to cause material damage to a branch of production, or is liable to prevent the development of productive enterprises for the production of similar goods, the establishment of which has begun.

Documentation 17. A complaint as stated in section shall be submitted, together with such information and evidence as may be obtained with reasonable effort.

Processing the complaint 18. (a) The Commissioner shall decide, within 21 days of receiving the complaint, whether there is any basis for it.

(b) Should the Commissioner conclude that there is no basis for the complaint, he shall inform the plaintiff accordingly in writing stating the reasons for his conclusion.

(c) If the Commissioner concludes that there is a basis for the complaint, he shall publish it - in *Reshumot* and in two daily newspapers - notice of the complaint having been submitted: should the name of the importer, producer or supplier be mentioned in the complaint, then the Commissioner shall inform them that the complaint has been submitted.

(d) Importers, producers or suppliers of goods, in respect of which notice has been published under subsection (c), as well as the evidence and responses submitted to him concerning it, and he shall bring the complaint and the results of his examination before the committee for discussion, within 21 days of the termination of the period for the submission of documents and responses.

(e) The Commissioner may, for reasons that shall be recorded, extend the periods set in this section for a period of not more than 30 additional days.

Commissioner's authority to gather evidence 19. (a) The Commissioner or person authorized by him in writing may gather evidence and require the production of any document, book or certificate, including documents that relate to import and export prices, and he may also demand replies to questionnaires and the submission of calculations, within a time set by him, for any of these:

(1) the complainant;



(2) the importer, producer or supplier of goods, in respect of which a complaint was submitted;

(3) any other person or government agency or other body, of which he has reasonable cause to believe that they have information concerning dumped or subsidized import.

(b) The Commissioner or a person so authorized by him may request documents and replies to questionnaires, as stated in subsection (a), even from a person whose place of residence is outside Israel, and with respect to a complaint regarding subsidized imports - also from authorities in the country which is said to have subsidized the price.

Dropping a  
complaint

20. (a) After he has given the plaintiff suitable opportunity to state his case before him, the Commissioner may - the Director General of the Ministry of Industry and Trade concurring - stay or stop dealing with a complaint, in respect of which notice was published under section 18(c), if an undertaking has been received to the Commissioner's satisfaction -

(1) in respect of a complaint on dumping - from the producer of the goods, to change the price of the imported goods, so as to stop the dumped import;

(2) in respect of a complaint regarding subsidized import - from the exporting country's government, to cease or reduce the subsidy, or an undertaking from the goods' supplier to change their price, so as to cancel the effect of subsidization.

(b) The committee shall terminate its treatment of a complaint submitted under section 18(e), if an undertaking as stated in subsection (a) has been received.

Powers of the  
committee

21. (a) The committee shall summon the plaintiff and the importer to state their cases before it: the committee may also summon any other person - including consumer organizations, as defined in the Consumer Protection Law 5741-1981 - if it believes that they can be helpful to its efforts; it may also request the Commissioner to investigate and gather additional evidence on subjects it decides.

(b) Upon completion of the work, and no later than 60 days after the complaint was submitted or 45 days after the day on which it received additional evidence as stated in subsection (a), respectively, the committee shall deliver its conclusions and its reasoned recommendations to the Minister, including -

(1) conclusions on the existence of dumped or subsidized imports, and on the extent of the dumping or the rate of subsidization, as the case may be;

(2) conclusions on the material damage caused or liable to be caused to any branch of production, or whether the development of a branch of production - the creation of which has begun - is being or is liable to be prevented, and whether that damage or outcome results from dumped or subsidized imports;

(3) recommendations concerning the imposition of anti-dumping duty or countervailing duty, its rate and period of effect.

Failure to produce evidence 22. If documents or replies, as said in section 19, are not delivered to the Commissioner, or are delivered in a partial manner, then the following provisions shall apply:

(1) If the documents or replies were requested from the complainant, that the Commissioner may, in consultation with the committee chairman, or the committee, as the case may be, stop dealing with the complaint:

(2) If the documents or replies were requested from another person, as said in section 19, then the committee shall submit its recommendations and conclusions as said in section 21(b) on the basis of information in its possession at that time.

#### **Title Five: Anti-Dumping Duty and Countervailing Duty**

Imposition of anti-dumping duty and countervailing duty 23. (a) After he has received the committee's recommendations, the Minister may - at his discretion and also taking into account trade relations between Israel and foreign countries and considerations that effect the economy in its entirety - impose by order anti-dumping duty and countervailing duty, if he finds that the following two conditions have been met:-

(1) goods have been imported or are about to be imported under conditions of dumped or subsidized imports;

(2) material damage has been or is liable to be caused to some branch of production, or development of a branch of production, the establishment of which has begun, is being or is liable to be prevented by the dumped or subsidized imports.

(b) The Minister shall make his decision under this section within 30 days of the day on which the committee's recommendations were submitted to him; if he fails to do so, or if he decides against the committee's recommendations, he shall notify the committee and the complainant of his reasons therefor in writing.

Imposition of anti-dumping duty 24. (a) Anti-dumping duty shall apply to a certain category of goods, imported from the country or countries of production specified in the order or made by producers or supplied by suppliers enumerated in the order.

(b) Anti-dumping duty shall be at the rate of some or all of the difference between the normal price and the export price, and may be a fixed amount, a percentage or according to some other method of calculation, all provided that it not exceed the said difference at the time the duty is set.

Imposition of countervailing duty 25. (a) Countervailing duty shall apply to goods that originate from a country of production, in which there is a subsidized price for those goods.

(b) Countervailing duty shall be at the rate of part or all of the subsidy, at the time the duty is being set.

Liability to duty 26. The importer of goods is liable for the payment of anti-dumping duty and of countervailing duty.

Period of validity 27. (a) An order that imposes duty under section 23 shall be valid for a period of three years from the day of its imposition, unless a shorter period is prescribed in the order; upon the committee's recommendation the Minister may reimpose the duty, if the conditions for its imposition continue to exist.

(b) The order shall apply to goods cleared through customs on the day on which it goes into effect, and thereafter.

(c) Notwithstanding the provisions of subsection (b), the Minister may prescribe that the duty apply also to goods cleared through customs against temporary surety, as said in section 28; should the Minister so determine, the duty shall apply even if the goods have passed out of the importer's possession.

Temporary surety 28. (a) If it appears to the Commissioner *prima facie*, that goods have been imported or are about to be imported as dumped or subsidized imports, and it appears *prima facie* that damage is liable to be caused to a branch of production, he may inform the director of the estimated rate - in his opinion - of the anti-dumping duty and of the countervailing duty that will apply to those goods.

(b) Should the Commissioner notify the director as said in subsection (a), the director shall require the importer to provide surety for payment of the duty, at the rate communicated by the Commissioner as stated in subsection (a).

(c) After the imposition of the duty, the surety shall be forfeited as stated in the order; should the duty be imposed at an amount lower than the surety, the difference shall be refunded; in the absence of an imposition of duty within six months of the day on which surety was provided, the surety shall be cancelled.

#### **Title Six: Re-examination of Duty**

Request for reexamination of duty 29. (a) An importer who imports, or is about to import goods, on which anti-dumping duty or countervailing duty has been imposed, or a person entitled to submit a complaint under section 16, may submit a reasoned written request for re-examination of the order that imposed the anti-dumping duty or the countervailing duty, for its change or repeal (hereinafter: re-examination request).

(b) A re-examination request shall not be considered, unless at least one year has passed since the duty was imposed, but the Commissioner may decide to reconsider a re-examination request earlier, if he finds that it is just to do so.

Dealing with a request 30. (a) Should the Commissioner determine that there is *prima facie* basis of the re-examination request, he shall inform the applicant and the parties to the proceeding accordingly.

(b) Should the Commissioner determine that there is no *prima facie* basis for the re-examination request, he shall inform the applicant accordingly and explain the reasons for his decision.

(c) The Commissioner may publish a notice about the re-examination request in *Reshumot* and in two daily newspapers.

(d) The parties to a proceeding as stated in subsection (a) may respond to the re-examination request within 30 days of the day on which the notice as stated in subsection (c) was published; other interested parties may also respond to the request.

(e) The Commissioner shall convey the re-examination request, the response, if one was submitted, and the results of his examination to the committee for discussion, within 21 days of the day for the delivery of a response.

Committee discussions and Minister's decision on reexamination request 31. (a) When the Commissioner has conveyed a re-examination to the committee, the committee shall summons the applicant and the parties to the proceeding, at their request, to state their arguments before it; the committee may also summon any other person it believes can be helpful to its work.

(b) At the conclusion of its work and no later than 30 days after the Commissioner conveyed the request to it, the committee shall present its recommendation on the re-examination request before the Minister.

(c) The Minister, taking into account the considerations and conditions as stated in section 23, may leave the order in effect, change it or cancel it.

Additional provisions 32. The provisions of this chapter apply, *mutatis mutandis*, to the re-examination of a levy under this title.

#### **Chapter Four: Levy in Support of Research, Marketing and Vocational Training**

Research levy 33. (a) The Minister may - during the period from the enactment of this law until 31 December 1992, upon application by an organization of producers, the members of which employ the majority of workers in a specific sector of production - prescribe by general order that dealers in the industry specified in the order pay a levy for the promotion of research, marketing, vocational training, the improvement of production processes and of product quality in that industry (hereinafter: research levy).

(b) The research levy for every reporting period as stated in section 34 shall be a proportion of the price of goods sold, or of services provided, or of wages paid by the dealer, or a given amount per unit of product or per employee, or according to any other calculation, all as prescribed by the Minister by order.

(c) If the levy determined as a proportion of the price of goods sold or of services provided by a dealer, then the price shall according to the rules determined in Chapter Three of the VAT Law.

(d) The provisions of Chapter Five shall apply, *mutatis mutandis*, to the research levy, and the term "director", wherever appearing, shall be replaced by "the Minister or a person so authorized by him".

(e) The effect of an order under this section shall lapse on 31 December 1992, unless an earlier date is prescribed in the order.

Periodic research levy 34. (a) A dealer liable to research levy shall deliver - to whom and in the manner prescribed by the Minister - returns on sales, wages or any other parameter on which the levy is based, for every period set for the dealer under the VAT Law (hereinafter: return period).

(b) A return shall be delivered within 15 days after the end of the return period, even if no business liable to levy was transacted during that period.

Payment of research levy 35. The research levy shall be paid - in the manner prescribed by the Minister - at the time the report under section 34 is submitted.

Exemption 36. The Minister may prescribe that a dealer, whose sales do not reach a prescribed amount is exempt of paying the levy.

The fund and its purpose 37. For each sector specified in an order under section 33(a), the Minister shall established a sectorial fund for the promotion of research, marketing and vocational training in that sector, and for the improvement of production processes and product quality (hereinafter: fund), which shall operate within the framework of the Ministry of which the Minister is in charge.

Designation of the fund 38. The sums collected as research levy shall be designated exclusively for purposes of the fund, and shall be expended as the managers of the fund decide.

Sources of fund 39. In addition to the money placed at the fund's disposal as stated in section 38, the fund may receive from any person money and allocations for the promotion of its objectives and activities.

The fund - a corporation 40. A fund established under section 37 is a body corporate.

Management of the fund 41. (a) The Minister shall appoint a management committee consisting of nine members for the fund and he shall appoint on of them - in consultation with the organization of producers as stated in section 33(a) - to be the chairman.

(b) The members of the management committee shall be -

(1) three government representatives, two of them from the staff of the Ministry of which the Minister is in charge, and one of the staff of the Vocational Training Department in the Ministry of Labour and Social Welfare;

(2) three representatives of employers in the sector, appointed on the recommendation of organizations, whose members employ a majority or the employees in the sector;

(3) two additional representatives appointed by the Minister from among those liable to the research levy for that fund;

(4) a representative of the labour organization whose members include a majority of the organized employees in that sector.

(c) The management of the fund shall prescribe its own work procedures, to the extent that they have not been prescribed by the Minister.

### **Chapter Five: General Provisions**

**Refund** 42. (a) The Minister may prescribe that, when the goods are made in Israel and exported, the levies paid under Chapter Two and Three on some or all of the goods used for their production be refunded, and he may make conditions under which that refund will be made.

(b) The Minister may prescribe that the refund be a proportion of the value of the exported goods, or a certain amount according to the quantity or weight of the goods used in the production of exported goods, or according to some other calculation.

(c) No refund shall be made of any levy imposed on the import of goods.

**Return** 43. The director may demand from any person in possession of goods of a category on which a levy has been imposed, that he submit imported, exported or held by him, their value, purchase price, sale price, where they are kept, the wages paid, the service charges paid, the address of the business or warehouses in his possession and every other particular required in this context, all as specified in the demand.

**Fees** 44. The Minister may prescribe, by order with the approval of the Knesset Finance Committee, the rates of fees to be paid by persons who submit complaints or applications for the reexamination of levy under this law.

**Date for payment of levy** 45. The safeguard levy, anti-dumping duty and countervailing duty (hereinafter in this chapter: levy) shall be paid at the times specified hereinafter, unless otherwise prescribed in the order, under which the levy has been imposed:

(1) for a levy on the import of goods, including anti-dumping duty and countervailing duty - until the time of payment of customs, and if the goods are exempt from customs - until the time when the bill of goods is released for consumption in Israel; with respect to anti-dumping duty imposed on goods cleared through customs, as said in section 27(b) or (c) - within 30 days after the levy was imposed;

(2) for a levy on the export of goods - up to the time of the release of the bill of goods for export;

(3) for a levy on the possession of goods - within 30 days of the day on which the goods came into the possessor's possession, or of the day on which the levy was imposed, whichever is later;

(4) for a levy on the provision of services - within 30 days after the service has been provided.

Deferral of payment date of levy 46. (a) Notwithstanding the provisions of section 45, the director may defer dates for the payment of a levy and he may make such deferment conditional upon the provision of surety which he deems satisfactory.

(b) If the director deferred the date for the payment of the levy, then it shall be supplemented by - for the period of deferment - linkage differentials at the rate of increase of the consumer price index published by the Central Bureau of Statistics, from the index last published before the date for the payment of the levy until the index last published before the actual payment.

Determination of levy upon non-submission of return 47. (a) Should a person chargeable for the payment of research levy fail to submit a periodic return, as stated in section 24, or should the possessor of goods fail to submit a return as said in section 43, the director may prescribe the chargeable levy, taking into account the extent of his business or activity, and where data is not available - by estimation.

(b) Determination of a levy, as stated in subsection (a), shall be cancelled where a return is submitted within 12 months of the day on which the levy was set.

Assessment 48. If a person chargeable for a levy has submitted a return and the director is of the opinion that the return is incomplete, or inaccurate, or is not based upon documentation or proper account books, then the director may assess the chargeable duty to the best of his judgement.

Contestation 49. (a) Should a person disagree with a decision by the Commissioner under sections 18(b), 20(a), 28 or 30(b), he may contest it in writing before the chairman of the committee within 15 days of the day on which he was informed of the decision, or within a longer period allowed him by the chairman for special reasons which shall be recorded.

(b) Should a person disagree with the classification of certain goods, or with the determination that they are part of a classification to which the levy applies, or with an assessment under section 48, or with the value set for goods for purposes of the levy, he may contest it in writing before the director, within 15 days of the day on which the levy was imposed and the decision made, as the case may be, or within a longer period allowed him by the director because of special reasons which shall be recorded.

(c) Should the committee chairman or the director fail to render a decision on the contestation within two months of the date on which it was made, then the contestation shall be deemed to have been accepted.

Appeal 50. (a) Whoever disputes his liability to a levy or who deems himself aggrieved by a decision or the committee chairman or of the director on a contestation under section 49, may appeal against it within 30 days of the day on which he was informed of the obligation to pay a levy or of the decision of the committee chairman or of the director, respectively.

(b) The court competent to hear an appeal under subsection (a) is the District Court; the appeal shall be heard by a single judge.

(c) The appeal shall be heard in open court, unless the court order otherwise upon application by a party.

(d) The burden of proof rests upon the appellant, if he did not supply proof which he was required to deliver to the Commissioner or to the committee, if he failed to make a return which he was required to make under this law or if his arguments are not supported by lawfully kept account books.

(e) The court may order the Commissioner or the committee chairman to bring a complaint or a re-examination request before the committee, and it may also approve, reduce, increase or cancel the assessment or the levy, or determine that the levy does not apply at all or to issue another judgement, all as it deems appropriate.

Powers of director 51. For purposes of implementation of this law the director shall have the powers prescribed by sections 108 to 111, 114 and 115 of the VAT Law.

Violations 52. (a) Any person who committed one of the following shall be liable to one year's imprisonment:

(1) submitted a return, information, account book, document or other certificate (hereinafter in this section: document) which is false in an important particular;

(2) failed to submit a return which he was required to submit under the provisions of this law or by regulations thereunder, other than a questionnaire or calculation under section 19, or his submission was late;

(3) he interfered with the performance of the duties of any person who acted lawfully under this law;

(4) he refused to submit or failed to submit a document or sample, which he was obligated to submit, having been ordered to do so;

(5) he unlawfully disclosed confidential information, which came into his possession for purposes of this law;

(6) he contravened one of the provisions of this law or of a regulation thereunder.

(b) If a person committed one the offenses enumerated in subsection (a) with the intention of evading payment of a levy, or if he committed some other act with the said intention, or if he willingly concealed, destroyed, or changed a document which he was required to keep or to submit under the provisions of this law, he shall be liable to three years' imprisonment.

Offenses by bodies corporate 53. If an offense against this law was committed by a body corporate, then any person who - at the time the offense was committed - was an active director, secretary, partner - other than a limited partner - comptroller or a senior administrative employee responsible



for that sphere shall also be guilty of such offense unless he proves that the offense was committed without his knowledge and that he took all appropriate steps to ensure compliance with the provisions of this law.

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| Responsibility for action of employees | 54. If an offense against his law is committed by an employee or agent in the course of the business of a person liable to a levy, then the liable person may also be accused of that offense, unless he proves that the offense was committed without his knowledge and that he took all appropriate steps to ensure compliance with the provisions of this law.  |
| Monetary composition                   | <p>55. (a) If a person committed an offense against the provisions of this law or is suspected thereof, the director may - with that person's consent - accept from him monetary composition in an amount no greater than double the largest fine that can be imposed for that offense, or three times the value of the goods, in connection with which the offense was committed, whichever is the larger amount, and when he has done so, every legal proceeding in connection with that offense shall cease; however, if an indictment for that offense has been filed, then monetary composition may be accepted only with the approval of the Attorney General or of a person so authorized by him.</p> <p>(b) The director may make monetary composition conditional upon an undertaking to refrain from offenses against this law during a period set by him, but not longer than three years; the undertaking shall be by bond no greater than the largest fine that can be imposed for the said offense, and it may be guaranteed by a third party or be without guarantee, as the director shall decide.</p> <p>(c) If a person is found guilty of an offense, from which he undertook to refrain under subsection (b), then the bond shall be collected as a levy under this law.</p> |
| Effect of levy                         | 56. The provisions of section 2 of the Customs and Excise Duties (Variation of Rates) Law 5709-1949 shall apply to the safeguard levy and the research levy, as if the levy were tax within the meaning of said section.   |
| Collection                             | 57. A levy under this law shall be collected under the Taxes (Collection) Ordinance, as if it were a tax within the meaning of that ordinance.   |
| Applicability of customs law           | 58. The provisions of sections 31 to 36, 39 A, 124 to 127, 136, 145, 150 except for its paragraph (2), 152, 156, 158, 159, 160B and 161 of the Customs Ordinance shall also apply, <i>mutatis mutandis</i> , to a levy under this law.   |
| Overpayment and underpayment           | 59. The provisions of the Indirect Taxes (Overpayment and Underpayment) Law 5728-1968 shall apply to levies under this law.  |
| Arrears fines                          | 60. The provisions of the Taxes (Arrear Fine) Law 5741-1980 shall apply to levies under this law, as if they had been imposed under a tax law, within the meaning of the said law; the director is authorized to waive or reduce arrear fines for special reasons which shall be recorded.   |
| Obligation of purchaser                | 61. (a) When a levy is imposed under this law on goods or services after their sale has been agreed upon, then the person liable to the levy may demand that the   |

purchaser or the recipient of the service pay him the amount he paid as levy, unless the agreement between them prescribes otherwise.

(b) When the rate of a levy is increased, then the provisions of this section shall apply to the additional amount of levy.

(c) When a levy is reduced or cancelled, the seller or whoever provides a service shall reduce the price, unless the agreement between them prescribes otherwise.

The State 62. The provisions of Chapter Three shall apply to goods imported by the government, except for customs exempt combat equipment.

Implementation and regulation 63. (a) The Minister is charged with the implementation of this law and he may enact regulations for its implementation.

(b) The Minister of Justice may enact regulations on the manner of submitting appeals under this law, on procedure and on fees, costs and loss of working time compensation for witnesses in said appeals.

Repeal 64. The following are repealed:

- (1) Emergency Regulations (Mandatory Payments) 5718-1958;
- (2) Prevention of Dumping Law 5737-1977.

Commence-  
ment,  
applicability  
and  
transitional  
provisions 65. (a) This law shall come into effect on 1 January 1991.  
(b) The provisions of this law on anti-dumping duty and countervailing duty shall apply to complaints submitted on the day of its publication and thereafter; if stated, a person submitted a complaint prior to the commencement of this law and if notice of its submission was published under the law in effect immediately before this law was published, and if it had not yet been brought before the committee, then he may inform the Commissioner that he desires the complaint to be dealt with under the provisions of this law; a said notification shall be delivered to the Commissioner in writing within one month after the publication of this law.

(c) Notwithstanding the provision of any enactment -

- (1) the provisions of section 2(d) of this law shall apply to an order made under Emergency Regulations (Mandatory Payments) 5718-1958, if no earlier date for its lapse is prescribed in that order, provided that its effect does not lapse later than 31 December 1992;
- (2) if an order was made under the Prevention of Dumping Law 5737-1977, a re-examination request in its respect may be made under this law.