

**Access to Microfinance & Improved Implementation of
Policy Reform
(AMIR Program)**

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**Amendments to National Production Protection Law
Jordan's Conformity to the WTO Agreements on
Anti-dumping, Countervailing and Safeguards**

Final Report

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EXECUTIVE SUMMARY

The AMIR Program is assisting the Kingdom of Jordan in their quest to become a Member of the World Trade Organization (WTO). In preparing for accession, Jordan is making efforts to amend and adopt laws that will be in conformity with Agreements of the WTO.

An area of major concern to most WTO Member countries is an acceding country's trade remedy laws. The AMIR Program initially focused on drafting and implementing laws on (1) anti-dumping (2) countervailing; and (3) safeguard measures. Mr. Ake Linden (formerly Deputy Secretary of the General Agreement on Tariffs and Trade) drafted anti-dumping duty, countervailing duty and safeguard measures laws for the AMIR Program based on model GATT/WTO law.

The Government of Jordan enacted the "Law on National Production Protection" (NPP) and the Law took effect in October 1998. Partially for the reason that the Law is new, there is reluctance to repeal the NPP Law and enact three new laws. The NPP Law is basically a Safeguard Measures law but contains a paragraph authorizing the issuance of regulations on anti-dumping and countervailing duty. To date, no regulations have been issued. The AMIR Program suggested that the NPP Law is amended by adding a Book I (anti-dumping) and a Book II (countervailing duty) and amending language was drafted and submitted to the Ministry of Industry and Trade (MIT). Subsequently, the suggested that instead of amending the NPP Law, that regulations be drafted and issued pursuant to the language of Article 15 of the current NPP Law. The AMIR Program drafted three regulations (anti-dumping, countervailing and safeguards) and submitted them to the MIT. Due to the comprehensive and thorough nature of the regulations, the AMIR Program was asked to shorten the three regulations, and Jordanized them. The AMIR Program and the legal advisors to AMIR are jointly performing this task.

A discussion of the worked performed in the three trade remedy laws area is set forth in this Report. Copies of the draft amending laws and regulations are contained in the Annexes to the Report.

TRADE REMEDY LAWS PROJECT

I. Background

An acceding country's trade remedy laws (anti-dumping duty, countervailing duty, and safeguard measures) are of great interest and importance to WTO Working Party Groups and WTO Member Countries. Jordan is in the process of acceding to WTO Membership.

Thus, the AMIR Program and the Jordanian Government are working jointly and collectively to structure WTO conforming trade remedy laws and regulations.

A country does not necessarily need to have anti-dumping, countervailing and safeguards laws in place to accede to the WTO. However, an acceding country must agree not to apply such measures. In Jordan's case, Jordan enacted the "Law on National Production Protection" (NPP), effective October 1998, and intends to use the NPP Law to protect its domestic industry from unfair trade practices (dumping and subsidies) and sudden surges of imports (safeguard measures).

The AMIR Program drafted model laws on (1) anti-dumping; (2) countervailing; and (3) safeguard measures. These draft laws were submitted to the Ministry of Industry and Trade. However, the Jordanian Government indicated that it would be difficult, or perhaps impossible to repeal or revise the NPP Law at this time.

A discussion of the work efforts of the AMIR Program in each of the three trade remedy laws area follow.

II. Anti-dumping

The "Law on National Production Protection" took effect on October 1, 1998. The AMIR Program was advised that it was unlikely that the NPP Law could or would be repealed. Thus, the AMIR Program suggested that the NPP Law be amended by adding a Book I covering the WTO principles of the Anti-dumping Agreement. An amending Book I was drafted and submitted to the Ministry of Industry and Trade. Annex A of this Report is a copy of the draft Book I on Anti-dumping.

Due to difficulties encountered vis-à-vis amending the NPP Law, the AMIR Program and the Ministry of Industry and Trade (MIT) decided to prepare implementing anti-dumping duty regulations pursuant to Article 15 of the NPP Law. Annex B of this Report is a copy of the draft Anti-dumping Regulations.

Currently, the AMIR Program and the office of its legal advisors are preparing a new set of anti-dumping duty regulations that are shorter, more concise and "Jordanized." These draft regulations are expected to be completed by mid-September 1999.

III. Countervailing Duty

The Law on National Production Protection (NPP) took effect on October 1, 1998. As mentioned above, the AMIR Program was advised that it was highly unlikely that the NPP could be repealed. Again, the AMIR Program suggested that the NPP be amended by adding a Book II covering the WTO principles of the Subsidies and Countervailing Duty Agreement. An amending Book II was drafted and submitted to the Ministry of Industry and Trade. Annex C of this Report is a copy of the draft Book II on Countervailing Duty.

And again, due to difficulties encountered vis-à-vis amending the NPP Law, the AMIR Program and the MIT decided to prepare implementing countervailing duty regulations pursuant to Article 15 of the NPP Law. Annex D is a copy of the draft Countervailing Duty Regulations.

Currently, the AMIR Program and the office of its legal advisors are preparing a new set of countervailing duty regulations that are shorter, more concise and administerable and "Jordanized. These draft regulations are projected to be completed by mid-September 1999.

IV. SAFEGUARD MEASURES

As mentioned in the paragraphs on Anti-dumping and Countervailing Duty, the identical problems existed vis-à-vis Safeguard Measures. The same course of action was pursued, that is, (1) a draft amending the NPP Law (which is basically a safeguard measures law); and (2) a draft set of implementing regulations.

Annex E is a "Drafting Amending Law" for The National Production Protection Law and Annex F is a copy of the draft Safeguard Measures Regulations.

The AMIR Program and the International Business Associates firm (AMIR's legal advisors) are preparing a new draft set of safeguard measures regulations. These draft regulations are projected to be completed by mid-September 1999.

ANNEX A

BOOK 1

ANTI-DUMPING DUTY MEASURES

Article 1. Scope. The Ministry may apply an anti-dumping duty on a product imported into the territory of Jordan only if it has determined, pursuant to an investigation conducted in accordance with the provisions of this Law and regulations issued pursuant to this Law, that the investigated product is being imported into the Kingdom at less than the normal value of the product in the country of production, and such imported product causes or threatens material injury to an established industry, or materially retards the establishment of a domestic industry.

Article 2. Definitions. For the purposes of this Law:

- (a) the term “**initiation**” shall mean the procedural action by which the Ministry formally commences an investigation as provided in regulations issued pursuant to this Law;
- (b) the term “**Ministry of Industry and Trade**” shall mean the national administration in charge of administering the anti-dumping legislation of Jordan in general and where required by this Law, at the appropriate senior level;
- (c) the term “**domestic industry**” shall mean the domestic producers as a whole of the like products or those of them whose collective output of the products constitutes a major proportion of the total domestic production of those products, except that
 - (i) when producers are related to the exporters or importers or are themselves importers of the allegedly dumped product, the term “**domestic industry**” shall refer to the rest of the producers. For the purposes of this Law, producers shall be deemed to be related to exporters or importers only if (a) one of them directly or indirectly controls the other; or (b) both of them are directly or indirectly controlled by a third person; or (c) together they directly or indirectly control a third person, 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.

- (d) the term “**interested parties**” shall mean:
 - (i) an exporter or foreign producer or the importer of a product subject to investigation, or a trade or business association a majority of the members of which are producers, exporters or importers of such product;
 - (ii) the government of the exporting country;
 - (iii) a producer of the like product in Jordan or a trade and business association a majority of the members of which produce the like product in Jordan.
- (e) the term “**like product**” shall mean a product which is identical, i.e., alike in all respects to the product under consideration 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 consideration;
- (f) the term “**injury**” shall, unless otherwise specified, mean material injury to an industry of Jordan, threat of material injury to a domestic industry or material retardation of the establishment of such an industry and shall be interpreted in accordance with the provisions of Title II of Part II of the anti-dumping duty regulations;
- (g) the term “**levy**” shall mean the definitive or final assessment or collection of a duty or tax.

Article 3. **Determination of Dumping.**

- (a) **Definition of Dumping.** For the purposes of this Law, a product is to be considered as being dumped, i.e., introduced into the commerce of Jordan at less than its normal value, if the export price of the product exported from a country to Jordan is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country.
- (b) **Normal Value.** Methods for determining normal value, whether based (1) on domestic prices in the exporting country; or (2) on export price to a third country; or (3) on constructed value are set forth in anti-dumping regulations issued pursuant to this Law.

Article 4. Determination of Injury

- (a) A determination of injury for the purpose of this Law shall be based on positive evidence and involve an objective examination of both:
- (i) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for like products, and
 - (ii) the consequent impact of these imports on domestic producers of such products.
- (b) Specific methods and procedures for determination of injury are provided for in anti-dumping duty regulations issued pursuant to this Law. Methods and procedures included in the regulations deal with the issue of cumulation, examination of volume and price of dumped imports, examination of impact of dumped imports on the domestic industry, causal link, injury to a regional industry and threat of material injury.

Article 5. Initiation of Investigations. An investigation to determine the existence, degree and effect of any alleged dumping shall be initiated upon a written petition by or on behalf of the domestic industry.

(a) **Petition on Behalf of the domestic Industry.**

The Ministry shall not initiate an investigation pursuant to this Law unless it has determined, on the basis of an examination of the degree of support for, or opposition to, the petition expressed by domestic producers of the like product, that the petition has been made by or on behalf of the domestic industry. The petition shall be considered to have been made by or on behalf of the domestic industry if

- (1) it is supported by those domestic producers whose collective output constitutes more than 50 per cent of the total production of the like product produced by that portion of the domestic industry expressing either support for or opposition to the petition; and
- (2) domestic producers expressly supporting the petition do not account for less than 25 per cent of total production of the like product produced by the domestic industry.

(b) **Evidence required in the Petition.**

A petition under paragraph (a) above shall include evidence of (i) dumping, (ii) injury within the meaning of this Law, and (iii) a causal link between the dumped imports and the alleged injury. The petition shall contain such information as is reasonably available to the applicant on the following:

- (1) identity of the petitioner and a description of the volume and value of the domestic production of the like product by the petitioner. Where a written petition is made on behalf of the domestic industry, the petitioner shall identify the industry on behalf of which the petition is made by a list of all known domestic producers of the like product (or associations of domestic producers of the like product) and, to the extent possible, a description of the volume and value of domestic production of the like product accounted for by producers;
- (2) a complete description of the allegedly dumped product, the names of the country or countries of origin or export in question, the identity of each known exporter or foreign producer and a list of known persons importing the product in question;
- (3) information on prices at which the product in question is sold when destined for consumption in the domestic markets of the country or countries of origin or export (or, where appropriate, information on the prices at which the product is sold from the country or countries of origin or export to a third country or countries or on the constructed value of the product) and information on export prices or, where appropriate, on prices at which the product is first resold to an independent buyer in the importing country;
- (4) information on the evolution of the volume of the allegedly dumped imports, the effect of these imports on prices of the like product in the domestic market and the consequent impact of the imports on the domestic industry, as demonstrated by relevant factors and indices having a bearing on the state of the domestic industry.

(c) Assessment of Application.

The Ministry shall examine the accuracy and adequacy of the evidence in the petition to determine whether there is sufficient evidence to justify the initiation of an investigation. Simple assertions, unsubstantiated by relevant evidence, cannot be considered sufficient to meet the requirements of this paragraph.

- (1) When the Ministry considers that the information which considers material for the assessment of the petition has not been supplied or is insufficient, it shall notify the applicant(s) of the

reasons why it found the petition insufficient and afford the petitioner(s) the possibility to revise or supplement the petition.

- (2) Subjects and issues, such as minimum import volumes and *de minimis* dumping margin, publicizing of the petition, withdrawal of the petition, initiation decision, self initiation, public notice and explanation of initiation determinations, and disclosure of petitions, are provided for in the anti-dumping regulations issued pursuant to this Law.

Article 6. Conduct of Investigations.

- (a) **Duration of Investigations.** The Ministry, except in special circumstances, conclude anti-dumping investigations within one year, and in no case more than 18 months, after their initiation.
- (b) **Customs Clearance.** An anti-dumping proceeding shall not hinder the procedures of customs clearance.
- (c) Subjects and issues, such as requests for information, confidentiality, verification of information, reliance on available information, access to the file, meetings and other forms of oral information, disclosure, and contributions by industrial users and representatives of consumer organizations, are provided for in regulations issued pursuant to this Law.

Article 7. Conclusion of the Investigation.

- (a) **Termination without adoption of measures.** At any time, an investigation shall be terminated promptly as soon as the Ministry is satisfied that there is not sufficient evidence of either dumping or injury to justify proceeding with the case.
- (b) **Provisional Measures.** Before applying provisional measures, the Ministry shall:
 - (i) make a preliminary affirmative determination of dumping and consequent injury to a domestic industry, based on an investigation in accordance with the provisions of this Law; and
 - (ii) judge such measures necessary to prevent injury being caused during the investigation.
- (c) **Content of Provisional Measures.** Provisional measures shall take the form of a security – by cash deposit or bond – not greater than the provisionally estimated margin of dumping.

- (d) Subjects and issues, such as public notice of imposition of provisional measures and duration of application of provisional measures, are provided for in regulations issued pursuant to this Law.

Article 8. Price Undertakings.

- (a) **Principles.** Proceedings may be suspended or terminated without the imposition of provisional measures or anti-dumping duties upon receipt of satisfactory voluntary undertakings from any exporter to revise its prices or to cease exports to the area in question at dumped prices so that the Ministry is satisfied that the injurious effect of the dumping is eliminated.

Subjects and issues, such as conditions for acceptance, completion of the investigation, violation of undertakings, and public notice of conclusion or suspension of an investigation in the case of an affirmative determination providing for the acceptance of a price undertaking, are provided for in anti-dumping regulations issued pursuant to this Law.

Article 9. Imposition and Collection of Anti-dumping Duties.

- (a) **Collection of Anti-dumping Duties.** Anti-dumping duties shall be collected by the authorized authorities in the appropriate amounts on a non-discriminatory basis on imports of such product from all sources found to be dumped and causing injury, except as to imports from those sources from which price undertakings under the terms of this Law and anti-dumping regulations issued pursuant to this Law have been accepted.
- (b) Subjects and issues, such as imposition of duties in cases involving producers in a certain area of Jordan, imposition of anti-dumping duties when sampling was used in the investigation, public notice of conclusion of an investigation in the case of an affirmative determination providing for the imposition of a definitive duty, and assessment of the anti-dumping duties, are provided for in anti-dumping regulations issued pursuant to this Law.

Article 10. Retroactivity.

- (a) **Principle.** Provisional measures and anti-dumping duties shall only be applied to products which enter for consumption after the time when the decision (1) to apply provisional measures and (2) to impose and collect anti-dumping duties respectively enters into force, subject to exceptions set out in the retroactivity provisions of the anti-dumping duty regulations.

- (b) Subjects and issues, such as definitive collection of provisional duties and retroactive application of measures, are provided for in anti-dumping regulations issued pursuant to this Law.

Article 11. Duration and Review of Anti-dumping Duties and Price Undertakings.

- (a) **Principle.** An anti-dumping duty shall remain in force only as long as and to the extent necessary to counteract dumping which is causing injury.
- (b) **Sunset Review.** Any definitive anti-dumping measure shall be terminated on a date not later than five years from its imposition, or pursuant to anti-dumping regulations issued pursuant to this Law.
- (c) Subjects and issues, such as review for change circumstances, newcomer review, and review of price undertakings, are provided for in anti-dumping regulations issued pursuant to this Law.

Article 12. Judicial Review.

Courts shall be competent for reviewing administrative actions relating to initiation, conduct and provisional and final determinations and reviews of determinations within the meaning of this Law. Such tribunals or procedures shall be independent of the authorities responsible for the determination or review in question.

ANNEX B

DRAFT REGULATIONS FOR ANTI-DUMPING DUTIES

May 1999

Issued Pursuant to Article 15 of The National Production Protection Law (No. 4)
Dated 1 October 1998

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PART I: DEFINITIONS AND PRINCIPLES

Article 1

Scope

This regulation shall be named "Anti-Dumping Duty Regulation for Implementation of the Law on National Production Protection of Jordan," issued pursuant to Article 15 of the Law, and shall be enforced from the date of publication in the Official Gazette.

- 2 The Ministry of Industry and Trade may apply an antidumping duty on a product imported into the territory of Jordan only if it has determined, pursuant to an investigation conducted in accordance with the provisions of the Law on National Production Protection of Jordan and this regulation, that the investigated product is being imported into the Kingdom at less than the normal value of the product in the country of production, and such imported product causes or threatens material injury to an established industry, or materially retards the establishment of a domestic industry.

Article 2

Definitions

For the purposes of this regulation

- (a) the term «initiation» shall mean the procedural action by which the Ministry of Industry and Trade formally commences an investigation as provided in Articles 29 and 30 of this regulation;
- (b) the term «Ministry of Industry and Trade» shall mean the national administration in charge of administering the anti-dumping legislation of Jordan in general and, where required by the Law on National Production Protection and this regulation, at the appropriate senior level;
- (c) the term «domestic industry» shall mean the domestic producers as a whole of the like products or those of them whose collective output of the products constitutes a major proportion of the total domestic production of those products, except that

- (i) when producers are related to the exporters or importers or are themselves importers of the allegedly dumped product, the term «domestic industry» shall refer to the rest of the producers. For the purpose of this regulation, producers shall be deemed to be related to exporters or importers only if (a) one of them directly or indirectly controls the other; or (b) both of them are directly or indirectly controlled by a third person; or (c) together they directly or indirectly control a third person, 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;
- (ii) in exceptional circumstances the territory of Jordan may, for the production in question, be divided into two or more competitive markets and the producers of the like product within each market may be regarded as a separate regional industry if:
 - the producers within such market sell all or almost all of their production of the product in question in that market; and
 - the demand in that market is not to any substantial degree supplied by producers of the product in question located elsewhere in the territory of Jordan.
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- (d) the term «interested parties» shall mean
 - (i) an exporter or foreign producer or the importer of a product subject to investigation, or a trade or business association a majority of the members of which are producers, exporters or importers of such product;
 - (ii) the government of the exporting country;
 - (iii) a producer of the like product in Jordan or a trade and business association a majority of the members of which produce the like product in Jordan;
- (e) the term «like product» shall mean a product which is identical, i.e., alike in all respects to the product under consideration 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 consideration;

- (f) the term «injury» shall, unless otherwise specified, mean material injury to an industry of Jordan, threat of material injury to a domestic industry or material retardation of the establishment of such an industry and shall be interpreted in accordance with the provisions of Title II of Part II;
- (g) the term «levy» shall mean the definitive or final legal assessment or collection of a duty or tax.

Article 3
Principles

An anti-dumping measure shall be applied only under the circumstances provided, and pursuant to an investigation initiated and conducted in accordance with, the provisions of the National Production Protection Law and this regulation.

PART II: DETERMINATION OF DUMPING AND INJURY

TITLE I
DETERMINATION OF DUMPING

Article 3
Definition of Dumping

For the purpose of this regulation a product is to be considered as being dumped, i.e., introduced into the commerce of Jordan at less than its normal value, if the export price of the product exported from a country to Jordan is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country.

Article 4
Normal Value Based on Domestic Prices

1. Except in circumstances foreseen under Article 6, the normal value shall be based on the price paid or payable, in the ordinary course of trade, in the exporting country, for sales of the like product to the product under investigation.
2. Sales to related customers shall not be considered as made within the ordinary course of trade and shall be disregarded in determining the normal value unless it is demonstrated to the satisfaction of the Ministry of Industry and Trade that they are made at arms length.
3. In the case where products are not imported directly from the country of origin but are exported to Jordan from an intermediate country, the Ministry of Industry and Trade shall normally establish the normal value on the price paid or payable in the

country of export. However, normal value may be based on the price in the country of origin, if, for example, the products are merely trans-shipped through the country of export, or such products are not produced in the country of export, or there is no comparable price for them in the country of export.

Article 5

Normal Value Based on Export Price to a Third Country or on Constructed Value

1. 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 Ministry of Industry and Trade shall determine the margin of dumping either:

- (a) by comparison with a comparable price of the like product when exported to an appropriate third country provided that this price is representative. Such price shall be considered as representative when the sales concerned are made in sufficient quantities, within the meaning of paragraph 2 below; or
- (b) by comparison with the cost of production in the country of origin plus a reasonable amount for administrative, selling and any other costs and for profits.

2. Sales of the like product destined for consumption in the domestic market of the exporting country may be considered not to be a sufficient quantity for the determination of the normal value if such sales constitute less than five (5) per cent the sales of the product under consideration to Jordan. The Ministry of Industry and Trade may apply another ratio where the evidence submitted by interested parties or otherwise available to it demonstrates that domestic sales at such lower ratio are nonetheless of sufficient magnitude to provide for a proper comparison.

Article 6

Sales Below Costs

1. The Ministry of Industry and Trade may treat sales of the like product in the domestic market of the exporting country or sales to a third country at prices below per unit (fixed and variable) costs of production plus selling, general and administrative costs as not being in the ordinary course of trade by reason of price and may disregard such sales in determining normal value only if the Ministry of Industry and Trade determine that such sales were made:

- (a) within an extended period of time (normally one year, but in no case less than six months);
- (b) in substantial quantities; and

- (c) at prices which did not provide for the recovery of all costs within a reasonable period of time.
2. For the purposes of this Article, sales below per unit cost shall be considered as made in substantial quantities when the Ministry of Industry and Trade establishes that:
- (a) 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
- (b) that the volume of sales below per unit costs represents twenty (20) per cent or more of the volume sold in transactions under consideration for the determination of the normal value.
3. If prices which are below costs at the time of sale are above weighted average costs for the period of investigation, the Ministry of Industry and Trade shall consider such prices as providing for recovery of costs within a reasonable period of time.

Article 7

Calculation of Costs for the Purposes of Articles 5 and 6

1. For the purpose of Articles 5 and 6, the Ministry of Industry and Trade shall normally calculate costs on the basis of records kept by the exporter or producer under investigation, provided that such records are in accordance with the generally accepted accounting principles of the exporting country and reasonably reflect the costs associated with the production and sale of the product under consideration.
2. The Ministry of Industry and Trade shall consider all available evidence on the proper allocation of costs, including that which is made available by the exporter or producer in the course of the investigation provided that such allocations have been historically utilized by the exporter or producer, in particular in relation to establishing appropriate amortization and depreciation periods and allowances for capital expenditures and other development costs.
3. Unless already reflected in the cost allocations under this Article, the Ministry of Industry and Trade shall adjust costs appropriately for those non-recurring items of cost which benefit future and/or current production, or for circumstances in which costs during the period of investigation are affected by start-up operations. The adjustment made for start-up operations shall reflect the costs at the end of the start-up period or, if that period extends beyond the period of investigation, the most recent costs which can reasonably be taken into account by the Ministry of Industry and Trade during the investigation.
4. For the purpose of Articles 5 and 6, the amounts for administrative, selling and any other costs and for profits shall be based on actual data pertaining to production

and sales in the ordinary course of trade of the like product by the exporter or producer under investigation. When such amounts cannot be determined on this basis, the amounts may be determined on the basis of:

- (a) the actual amounts incurred and realized by the exporter or producer in question in respect of production and sales in the domestic market of the country of origin of the same general category of products; or
- (b) the weighted average of the actual amounts incurred and realized by other exporters or producers subject to investigation in respect of production and sales of the like product in the domestic market of the country of origin;

If none of these methods are applicable, the Ministry of Industry and Trade may use any other reasonable method, provided that the amount for profit so established shall not exceed the profit normally realized by other exporters or producers on sales of products of the same general category in the domestic market of the country of origin.

Article 8

Non-Market Economies

In case of imports from a country which has a complete or substantially complete monopoly of its trade and where all domestic prices are fixed by the State («non-market economies»), normal value shall be determined on the basis of the price or constructed value in a market economy country substitutable in terms of production of the product under investigation, or the price from such a third country to other countries, including Jordan, or where those are not possible, on any other reasonable basis, including the price actually paid or payable in Jordan for the like product, duly adjusted if necessary to include a profit margin corresponding to the margin to be expected under the existing economic circumstances for the sector concerned.

Article 9

Export Price

1. The export price shall normally be the price actually paid or payable for the product under investigation when sold for export from the exporting country to Jordan.
2. In cases where there is no export price or where it appears to the Ministry of Industry and Trade that the export price is unreliable because of association or a compensatory arrangement between the exporter and the importer or a third party:
 - (a) the export price may be constructed on the basis of the price at which the imported products are first resold to an independent buyer, or

(b) if the products are not resold to an independent buyer, or not resold in the condition as imported, on such reasonable basis as the Ministry of Industry and Trade may determine.

3. The Ministry of Industry and Trade may, in the circumstances foreseen in paragraph 2, omit from the calculation of the export price all transactions between related parties unless it is demonstrated to the satisfaction of the Ministry of Industry and Trade that those transactions were made at arms length.

Article 10

Price Comparison - Adjustments

1. The Ministry of Industry and Trade shall make a fair comparison between the export price and the normal value. This comparison shall be made at the same level of trade, normally at the ex-factory level, and in respect of sales made at as nearly as possible the same time. Due allowance shall be made in each case, on its merits, for differences which affect price comparability, including differences in conditions and terms of sale, taxation, levels of trade, quantities, physical characteristics, and any other differences which are also demonstrated by interested parties to affect price comparability. As some of the above factors may overlap, the Ministry of Industry and Trade shall ensure that they do not duplicate adjustments that have been already made under this Article.

2. In cases where the export price is constructed on the basis of the price at which the imported products are first resold to an independent buyer pursuant to Article 9.2(a) allowances for costs, including duties and taxes, incurred between importation and resale, and for profits, should also be made. If in these cases, price comparability has been affected, the Ministry of Industry and Trade shall establish the normal value at a level of trade equivalent to the level of trade of the constructed export price, or make due allowance as warranted under this Article.

3. The Ministry of Industry and Trade shall indicate to the parties in question what information is necessary to ensure a fair comparison. The Ministry of Industry and Trade shall, on a case-by-case basis, determine the degree of evidence to be required from each interested party based on the nature of the allowance and factors related to the capacity of the interested party to provide detailed information such as, e.g. its size or the availability of certain data in computer media, in order not to impose an unreasonable burden of proof on those parties.

Article 11

Price Comparison - Methods

1. Subject to the provisions governing fair comparison in Article 10, the existence of margins of dumping during 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 export transactions or by a comparison of normal value and export prices 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 if the Ministry of Industry and Trade finds a pattern of export prices which differ significantly among different purchasers, regions or time periods. In such circumstances, the Ministry of Industry and Trade shall provide explanations to interested parties as to why such differences cannot be taken into account appropriately by the use of a weighted average-to-weighted average or transaction-to-transaction comparison. A summary of this explanation shall also appear in the public notice of the imposition of provisional and definitive measures.

3. Where, in the case contemplated in Article 4.3, the Ministry of Industry and Trade makes a comparison with the price in the country of origin, the export price shall be calculated ex-factory.

Article 12 *Currency Conversion*

1. When the price comparison under Articles 10 and 11 requires a conversion of currencies, the Ministry of Industry and Trade should make such conversion using the rate of exchange on the date of sale, provided that when a sale of foreign currency on forward markets is directly linked to the export sale involved, the rate of exchange in the forward sale shall be used. Normally, the date of sale should be the date of contract, purchase order, order confirmation, or invoice, whichever establishes the material terms of sale. The Ministry of Industry and Trade shall ignore fluctuations in exchange rates and exporters shall be allowed at least 60 days to have adjusted their export prices to reflect sustained movements during the period of investigation.

Article 13 *Individual Dumping Margin*

The Ministry of Industry and Trade shall, as a rule, determine an individual margin of dumping for each known exporter or producer concerned of the product under investigation.

Article 14 *Sampling*

1. Notwithstanding Article 13, in cases where the number of exporters, producers, importers or types of products involved is so large as to make it impracticable to determine an individual margin of dumping for each known exporter or producer concerned of the product under investigation, the Ministry of Industry and Trade may limit their examination either to a reasonable number of interested parties or products by using samples which are statistically valid on the basis of information available to the Ministry of Industry and Trade at the time of the selection, or to the largest percentage of the volume of the exports from the country in question which can reasonably be investigated.

2. Any selection of exporters, producers, importers or types of products made under this Article shall preferably be chosen in consultation with and with the consent of the exporters, producers or importers concerned.

3. In cases where the Ministry of Industry and Trade has limited its examination as provided for in this Article, exporters or producers not initially selected may nevertheless make voluntary responses. The Ministry of Industry and Trade shall determine an individual margin of dumping for any exporter or producer not initially selected who submits the necessary information in time for that information to be considered during the course of the investigation, except where the number of exporters or producers is so large that individual examinations would be unduly burdensome to the Ministry of Industry and Trade and prevent the timely completion of the investigation.

TITLE II DETERMINATION OF INJURY

Article 15 Principles

A determination of injury for the purposes of this regulation shall be based on positive evidence and involve an objective examination of both:

- (a) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for like products, and
- (b) the consequent impact of these imports on domestic producers of such products.

Article 16 Cumulation

Where imports of a product from more than one country are simultaneously subject to anti-dumping investigations, the Ministry of Industry and Trade may cumulatively assess the effects of such imports only if it determines that:

- (a) the margin of dumping established in relation to the imports from each country is more than *de minimis* and the volume of imports from each country is not negligible, as defined in Article 43; and
- (b) a cumulative assessment of the effects of the imports is appropriate in light of the conditions of competition between imported products and the conditions of competition between the imported products and the like domestic product.

Article 17 Examination of Volume and Price of Dumped Imports

1. With regard to the volume of the dumped imports, the Ministry of Industry and Trade shall consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in Jordan.
2. With regard to the effect of the dumped imports on prices, the Ministry of Industry and Trade shall consider whether there has been a significant price undercutting by the dumped imports as compared with the price of a like product of Jordan, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.
3. No one or several of these factors can necessarily give decisive guidance.

Article 18

Examination of the Impact of the Dumped Imports on the Domestic Industry

1. The examination of the impact of the dumped imports on the domestic industry concerned shall include an evaluation by the Ministry of Industry and Trade of all relevant economic factors and indices having a bearing on the state of the industry, including:

actual and potential decline in sales, profits, output, market share, productivity, return on investments, or utilization of capacity;

factors affecting domestic prices;

the magnitude of the margin of dumping;

actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital or investments.

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

2. The Ministry of Industry and Trade shall assess the effect of the dumped imports in relation to the domestic production of the like product when available data permit the separate identification of that production on the basis of such criteria as the production process, producers' sales and profits. If such separate identification of that production is not possible the effects of the dumped imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes the like product, for which the necessary information can be provided.

Article 19

Causal link

1. It must be demonstrated that the dumped imports are, through the effects of dumping, as set forth in Articles 17 and 18, causing injury within the meaning of this

regulation. The demonstration of a causal relationship between the dumped imports and the injury to the domestic industry shall be based on an examination of all relevant evidence before the Ministry of Industry and Trade.

2. The Ministry of Industry and Trade shall also examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, and the injuries caused by these other factors must not be attributed to the dumped imports. Factors which may be relevant in this respect include, *inter alia*, the volume and prices of imports not sold at dumping prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry.

Article 20

Injury to a Regional Industry

1. If, in exceptional circumstances, the Ministry of Industry and Trade has divided the territory of Jordan into two or more competitive markets pursuant to Article 1(c)(ii), injury may be found to exist with respect to the regional industry so defined, even where a major portion of the total domestic industry is not injured, provided that:

(a) there is a concentration of dumped imports into the market concerned; and

the dumped imports are causing injury to the producers of all or almost all of the production within such market.

Article 21

Threat of Material Injury

1. The Ministry of Industry and Trade shall base its determination of a threat of material injury on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances which would create a situation in which the dumping would cause injury must be clearly foreseen and imminent.

2. In making a determination regarding the existence of a threat of material injury, the Ministry of Industry and Trade should consider, *inter alia*, such factors as:

(a) a significant rate of increase of dumped imports into the domestic market indicating the likelihood of substantially increased importations;

sufficiently freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to Jordan's 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 being investigated.

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

2. With respect to cases where injury is threatened by dumped imports, the Ministry of Industry and Trade shall consider and decide the application of anti-dumping measures with special care.

PART III: INITIATION AND CONDUCT OF INVESTIGATIONS

TITLE I INITIATION OF INVESTIGATIONS

Article 22

Requirement of a Written Application

Except as provided for in Article 30, an investigation to determine the existence, degree and effect of any alleged dumping shall be initiated upon a written application by or on behalf of the domestic industry.

Article 23

Application on Behalf of the Domestic Industry

1. The Ministry of Industry and Trade shall not initiate an investigation pursuant to Article 24 unless it has determined, on the basis of an examination of the degree of support for, or opposition to, the application expressed by domestic producers of the like product, that the application has been made by or on behalf of the domestic industry. The application shall be considered to have been made «by or on behalf of the domestic industry» if
 - a) it is supported by those domestic producers whose collective output constitutes more than 50 per cent of the total production of the like product produced by that portion of the domestic industry expressing either support for or opposition to the application; and
 - b) domestic producers expressly supporting the application do not account for less than 25 per cent of total production of the like product produced by the domestic industry.
2. In the case of fragmented industries involving an exceptionally large number of producers, The Ministry of Industry and Trade may determine support and opposition by using statistically valid sampling techniques.
3. Workers or other employees of domestic producers of the like product or representatives of those employees, may make or support an application for an investigation.

Article 24

Evidence Required in the Application

An application under paragraph 1 shall include evidence of (a) dumping, (b) injury within the meaning of Title II of Part II of this regulation, and (c) a causal link between the dumped imports and the alleged injury. The application shall contain such information as is reasonably available to the applicant on the following:

- (a) identity of the applicant and a description of the volume and value of the domestic production of the like product by the applicant. Where a written application is made on behalf of the domestic industry, the application shall identify the industry on behalf of which the application is made by a list of all known domestic producers of the like product (or associations of domestic producers of the like product) and, to the extent possible, a description of the volume and value of domestic production of the like product accounted for by such producers;
- (b) a complete description of the allegedly dumped product, the names of the country or countries of origin or export in question, the identity of each known exporter or foreign producer and a list of known persons importing the product in question;
- (c) information on prices at which the product in question is sold when destined for consumption in the domestic markets of the country or countries of origin or export (or, where appropriate, information on the prices at which the product is sold from the country or countries of origin or export to a third country or countries or on the constructed value of the product) and information on export prices or, where appropriate, on the prices at which the product is first resold to an independent buyer in the importing country;
- (d) information on the evolution of the volume of the allegedly dumped imports, the effect of these imports on prices of the like product in the domestic market and the consequent impact of the imports on the domestic industry, as demonstrated by relevant factors and indices having a bearing on the state of the domestic industry, such as those listed in Articles 16, 17 and 19.

Article 25

Assessment of Application

1. The Ministry of Industry and Trade shall examine the accuracy and adequacy of the evidence provided in the application to determine whether there is sufficient evidence to justify the initiation of an investigation. Simple assertion, unsubstantiated by relevant evidence, cannot be considered sufficient to meet the requirements of this paragraph.
2. When the Ministry of Industry and Trade consider that the information which it considers material for the assessment of the application has not been supplied or is insufficient, it shall notify the applicant(s) of the reasons why it found the application insufficient and afford the applicant(s) the possibility to revise or supplement the application. The applicant(s) may also revise or complement the application of its/their own initiative.
3. Where the Ministry of Industry and Trade has determined that insufficient evidence has been presented, the Ministry of Industry and Trade shall inform the applicant(s) within 15 days of the date on which the application was received by the Ministry of Industry and Trade. Applications shall be sent by registered mail or any

other means of delivery allowing the exact identification of the date of receipt of the application. When the applicant revises or complements its application, the time limits set out in Article 29 shall apply as of the date of submission of the revised or complemented application.

Article 26

Minimum Import Volumes and de Minimis Dumping Margin

The Ministry of Industry and Trade shall not initiate an investigation with respect to a given product and country if it determines, on the basis of the application, that:

- a) imports of the product from that country into Jordan represents less than three (3) per cent of imports of the like product into Jordan, unless the countries under investigation which individually account for less than three (3) per cent of the import of the like product in Jordan collectively account for more than seven (7) of imports of the like product in Jordan, or
- b) imports of the product from that country into Jordan represent less than one (1) per cent of total domestic consumption of the like product , unless countries which individually account for less than one (1) per cent collectively account for 3% or more of Jordan consumption, or
- c) that the margin of dumping is less than 2 per cent, expressed as a percentage of the export price.

Article 27

Publicizing of the Application

The Ministry of Industry and Trade shall avoid, unless a decision has been made to initiate an investigation, any publicizing of the application for the initiation of an investigation. However, after receipt of a properly documented application and before proceeding to initiate an investigation, the Ministry of Industry and Trade shall notify the government of each exporting WTO Member concerned.

Article 28

Withdrawal of Application

Any application under Article 23 may be withdrawn prior to initiation, in which case it shall be considered not to have been made. An application may be withdrawn at any time after an investigation has been initiated, in which case the Ministry of Industry and Trade shall decide whether it is in the interest of Jordan to continue the investigation or terminate it without measures. The provisions of Part IV shall apply to such situations.

Article 29
Initiation Decision

1. When the Ministry of Industry and Trade has determined (a) that there is sufficient evidence of dumping, injury and causation as set forth in Article 24, (b) that the application is made by or on behalf of the domestic industry as set forth in Article 23 and (c) that the conditions of minimum import volumes and dumping margin as set forth in Article 26 are satisfied, the Ministry of Industry and Trade may initiate an investigation. Where the Ministry of Industry and Trade does not consider it appropriate to initiate an investigation, it shall notify the applicant(s) of the reasons for not initiating the investigation.
2. Any decision to initiate an anti-dumping investigation shall be adopted within 45 days of the date when the application was made. This time period may be extended up to 60 days with the agreement of the Applicant(s).

Article 30
Self Initiation

In special circumstances, the Ministry of Industry and Trade may decide to initiate an investigation without having received a written application by or on behalf of the domestic industry for the initiation of such investigation. In such a case, they shall proceed only if they have sufficient evidence of dumping, injury and a causal link, as described in Article 24, to justify the initiation of an investigation, and have determined that the minimum import volumes and dumping margin set forth in Article 26 are satisfied.

Article 31
Public Notice and Explanation of Initiation Determinations

1. When the Ministry of Industry and Trade has decided to initiate an anti-dumping investigation the Ministry of Industry and Trade:
 - (a) shall notify the initiation of an investigation to the exporters, importers and representative associations of importers or exporters known to the Ministry of Industry and Trade to be concerned, as well as representatives of the exporting country(ies), the complainant(s) and other interested parties known to the Ministry of Industry and Trade to have an interest therein; and
 - b) shall give public notice [in the Official Journal of Jordan and/or in two local newspaper widely disseminated in Jordan].
2. A public notice of the initiation of an investigation shall contain adequate information on the following:

- the name of the exporting country or countries and the product involved;
 - the date of initiation of the investigation;
 - (c) the basis on which dumping is alleged in the application;
 - a summary of the factors on which the allegation of injury is based;
 - (e) the address to which representations by interested parties should be directed;
 - (f) the time-limits within which interested parties shall, in writing, apply for access to the non-confidential file, apply for the authorization to make their views known and request a hearing.
3. This notice shall be forwarded to the Member or Members the products of which are subject to such determination and to other interested parties known to have an interest therein.
4. The provisions of this Article shall apply *mutatis mutandis* to the initiation of reviews pursuant to Part V.

Article 32

Disclosure of Application

1. Subject to the requirement to protect confidential information pursuant to Article 18, the Ministry of Industry and Trade shall, as soon as the investigation is initiated, provide the full text of the written application received under Article 23 to the known exporters and foreign producers and to the authorities of the exporting country and make it available, upon request, to other interested parties involved.
2. Where the number of exporters involved is particularly high, the obligation to provide known exporters and foreign producers with the full text of the written application may be deemed to be satisfied through the provision of the text to the relevant trade association(s) or, where that is not possible, to the authorities of the exporting country(ies).

TITLE II

CONDUCT OF INVESTIGATIONS

Article 33

Duration of Investigations

1. The Ministry of Industry and Trade shall, except in special circumstances, conclude anti-dumping investigations within one year, and in no case more than 18 months, after their initiation.
2. The Ministry of Industry and Trade shall consider evidence of both dumping and injury simultaneously:
 - (a) in the decision whether or not to initiate an investigation; and
 - (b) thereafter, during the course of the investigation, starting on a date not later than the earliest date on which, in accordance with the provisions of this regulation, provisional measures may be applied.

Article 34

Customs Clearance

An anti-dumping proceeding shall not hinder the procedures of customs clearance.

Article 35

Requests for Information

1. Upon initiation of the investigation, the Ministry of Industry and Trade shall send questionnaires to all domestic producers, importers, exporters and foreign producers. Upon request, any other interested parties which have, within the period mentioned in the notice of initiation, made a written request for a hearing showing that they are interested parties likely to be affected by the results of the proceedings and that there are particular reasons why they should be heard, shall be given notice of the information which the Ministry of Industry and Trade requires. Each interested party shall be given ample opportunity to present in writing all evidence which it considers relevant in respect of the investigation in question. Written evidence shall nonetheless not be accepted after a period of 10 days following the notification by the Ministry of Industry and Trade to all interested parties, pursuant to Article 39.3, that information shall no longer be accepted for the purpose of final determinations.
2. The Ministry of Industry and Trade shall select an investigation period which, in the case of dumping, shall normally cover a period of one year immediately preceding the date of initiation of the investigation. In no cases shall the investigation period be shorter than six (6) months. Information regarding injury shall normally be

gathered on a period of up to four years, except when imports to Jordan of the product under consideration started more recently.

3. Exporters or foreign producers receiving questionnaires used in an anti-dumping investigation shall be given at least thirty days for reply. As a general rule, the time-limit for exporters shall be counted from the date of receipt of the questionnaire, which for this purpose shall be deemed to have been received one week from the day on which it was sent to the respondent or transmitted to the appropriate diplomatic representative of the exporting country or in the case of a separate customs territory Member of the WTO, an official representative of the exporting territory. The Ministry of Industry and Trade shall give due consideration to any request for an extension of the thirty day period. Such an extension shall be granted whenever practicable, upon due cause shown, keeping into account the time limits of the investigation. In any event, the total period granted to reply to the questionnaire shall not exceed 60 days.

4. The Ministry of Industry and Trade may, during the course of the investigation, request further information from interested parties. Such requests shall be made or confirmed in writing, the written request shall mention the date by which reply is due. Sufficient time shall be granted in order to allow meaningful replies. The provisions of Article 38 shall apply to information requested under this paragraph.

Article 36 *Confidentiality*

1. Any information which is by nature confidential, *inter alia* because its disclosure would be of significant competitive advantage to a competitor or because its disclosure would have a significantly adverse effect upon a person supplying the information or upon a person from whom he/she acquired the information) or which is provided on a confidential basis by parties to an investigation shall, upon good cause shown, be treated as such by the Ministry of Industry and Trade. Such information shall not be disclosed without specific permission of the party submitting it.

2. Interested parties providing confidential information shall furnish non-confidential summaries thereof. These summaries shall be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. In exceptional circumstances, such parties may indicate that such information is not susceptible of summary, in which case a statement of the reasons why summarization is not possible must be provided.

3. If the Ministry of Industry and Trade finds that a 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, the Ministry of Industry and Trade may disregard such information unless it can be demonstrated to its satisfaction from appropriate sources that the information is correct.

Article 37
Verification of Information

1. Except in circumstances provided for in Article 38, the Ministry of Industry and Trade shall during the course of an investigation satisfy itself as to the accuracy of the information supplied by interested parties upon which its findings are based.

2. In order to verify information provided or to obtain further details, the Ministry of Industry and Trade may carry out investigations in other countries as required, provided it obtains the agreement of the firms concerned and provided it notifies the representatives of the government of the country in question and unless the latter object to the investigation. The procedures described in Annex I shall apply to verifications carried out in the territory of other Members of the WTO. The Ministry of Industry and Trade shall, subject to the requirement to protect confidential information pursuant to Article 36, make the results of any verifications available or provide disclosure thereof pursuant to Article 41, to the firms to which they pertain and may make such results available to the applicants.

Article 38
Reliance on Available Information

1 In cases in which any interested party:

- (a) refuses access to, or otherwise does not provide, necessary information within the period of time prescribed by the Ministry of Industry and Trade; or
- (b) otherwise significantly impedes the investigation;

the Ministry of Industry and Trade may reach preliminary and final determinations, affirmative or negative on the basis of the information available, including the application. The provisions of Annex II shall be followed in the application of this paragraph.

2. The Ministry of Industry and Trade shall take due account of any difficulties experienced by interested parties, in particular small companies, in supplying information requested. In that context, the Ministry of Industry and Trade shall provide any assistance practicable and/or may extend any time period prescribed for the submission of a given information whenever applicable.

Article 39
Access to the File

1. The Ministry of Industry and Trade shall maintain a public file relating to each investigation or review. Subject to the requirement to protect confidential information, the Ministry of Industry and Trade shall promptly place in the file:

- (a) all public notices relating to the investigation;

all materials, including questionnaire responses or any written communications presented to the Ministry of Industry and Trade;

- (c) all other information developed or obtained by the Ministry of Industry and Trade, including the verification report prepared pursuant to Article 37.2 and any oral information subsequently reproduced in writing pursuant to Article 40.3; and

any internal memoranda and other documents the Ministry of Industry and Trade deems appropriate for public disclosure.

2. The public file shall be available to the general public for review and copying at the offices of the Ministry of Industry and Trade throughout the course of the investigation or review.

3. All interested parties shall be entitled to make presentations to the Ministry of Industry and Trade on the basis of this information contained in the public file. However, no presentation shall be accepted 10 days after the Ministry of Industry and Trade has held a disclosure meeting with the interested parties who asked for one. Interested parties who did not ask for a disclosure meeting shall not be entitled to make any presentation 10 days after they were notified by the Ministry of Industry and Trade that it had held all the requested disclosure meetings.

Article 40

Meetings and other Forms of Oral Information

1. Throughout the anti-dumping investigation all interested parties shall have a full opportunity for the defense of their interests. To this end, the Ministry of Industry and Trade shall, on request, provide opportunities for all interested parties to meet those parties with adverse interests, so that opposing views may be presented and rebuttal arguments offered. Such meetings shall take place at the headquarters of the Ministry of Industry and Trade and shall be chaired by an official of the Ministry of Industry and Trade. This official shall ensure that confidentiality is preserved to the extent necessary. Meetings should, to the maximum extent possible, be organized by the Ministry of Industry and Trade taking into account the convenience of the interested parties. There shall be no obligation on any interested party to attend a meeting, and failure to do so shall not be prejudicial to that interested party's case.

2. Interested parties shall also have the right, on justification, to present information orally to the Ministry of Industry and Trade. Such presentations shall take the form of hearings to which the officials of the Ministry of Industry and Trade, authorized representatives of the interested party and witnesses for the interested parties, provided that the interested party notifies in advance the names of the witnesses to the Ministry of Industry and Trade concerned, shall be present. Each party shall be entitled to one hearing to be held at the latest 15 days after the Ministry of Industry and Trade completed on-the-spot verifications. The Ministry of Industry

and Trade may, upon request, hold additional hearings with any interested party at any moment of the procedure. Requests for additional hearings shall be duly justified.

3. Oral information provided under paragraphs 1 and 2 shall be taken into account by the Ministry of Industry and Trade only insofar as it is subsequently reproduced in writing and made available to other interested parties.

Article 41
Disclosure

The Ministry of Industry and Trade shall, at least one (1) month before they intend to reach a final determination, inform all interested parties of the essential facts under consideration which form the basis for the decision whether to apply definitive measures. Such disclosure may be made in writing or orally. Written disclosure shall be made subject to confidentiality requirements under Article 36. When the Ministry of Industry and Trade decides to make an oral disclosure, it shall organize a meeting with all interested parties who made their views known. If necessary to preserve confidentiality, the Ministry of Industry and Trade may hold separate disclosure meetings with each of the interested parties who asked for a separate disclosure. Interested parties shall be entitled to comment orally during the disclosure, subject to the provisions of Article 40, paragraph 3. Interested parties shall be given 15 days to comment in writing upon the disclosure.

Article 42
Contributions by Industrial Users and Representative Consumer Organizations

The Ministry of Industry and Trade shall provide opportunities for industrial users of the product under investigation, and for representative consumer organizations in cases where the product is commonly sold at the retail level, to provide information which is relevant to the investigation regarding dumping, injury, causality and the interest of Jordan in imposing measures. Such information may be provided in writing. Where possible, the Ministry of Industry and Trade shall allow industrial users of the product under investigation and/or representative consumer organizations to make oral presentations, subject to the requirement of Article 40, paragraph 3. Intention to request a hearing shall be notified to the Ministry of Industry and Trade within 37 days from the publication of the notice of initiation of the investigation. No hearing shall be held later than 10 days after the Ministry of Industry and Trade has notified the interested parties that it intends to take a definitive decision on the investigation.

PART IV: CONCLUSION OF THE INVESTIGATION

TITLE I

TERMINATION WITHOUT ADOPTION OF MEASURES

Article 43

Termination for Insufficient Evidence, de Minimis Dumping Margin or Negligible Volume

1. At any time, an investigation shall be terminated promptly as soon as the Ministry of Industry and Trade is satisfied that there is not sufficient evidence of either dumping or of injury to justify proceeding with the case.
2. The Ministry of Industry and Trade shall immediately terminate an investigation when it determines that the margin of dumping is *de minimis*, or that the volume of dumped imports, actual or potential, or the injury, is negligible. The margin of dumping shall be considered to be *de minimis* if this margin is less than 2 per cent, expressed as a percentage of the export price. The volume of dumped imports shall normally be regarded as negligible if the volume of dumped imports from a particular country is found to account for less than 3 per cent of imports of the like product in Jordan unless countries under investigation which individually account for less than 3 per cent of the imports of the like product in Jordan collectively account for more than 7 per cent of imports of the like product in Jordan.

TITLE II

PROVISIONAL MEASURES

Article 44

Conditions for the Imposition of Provisional Measures

Before applying provisional measures, the Ministry of Industry and Trade:

- (a) shall make a preliminary affirmative determination of dumping and consequent injury to a domestic industry, based on an investigation initiated in accordance with the provisions of this regulation; and
- (b) shall judge such measures necessary to prevent injury being caused during the investigation.

Article 45

Content of Provisional Measures

1. Provisional measures shall take the form of a security - by cash deposit or bond - not greater than the provisionally estimated margin of dumping.

2. The Ministry of Industry and Trade shall not impose provisional measures before the determinations referred to in Article 44 are completed and, in any case, not sooner than 60 days from the date of initiation of the investigation. The Ministry of Industry and Trade shall inform the importers and exporters of its intention to impose provisional measures 30 days before adopting those measures and shall grant 10 days to importers and exporters to comment in writing on the reasons stated by the Ministry of Industry and Trade for the adoption of provisional measures, unless the Ministry of Industry and Trade determines that this would result in serious disruptions of the market for the product under investigation. Provisional measures shall be imposed only on products entered for consumption into the customs territory of Jordan after the date of publication of the decision imposing provisional measures.

Article 46

Public Notice of Imposition of Provisional Measures

1. Provisional measures shall take effect as of the date that a public notice of the imposition of provisional measures is published in [the Official Journal and/or in two newspapers of large dissemination in Jordan]. The public notice shall set forth sufficiently detailed explanations for the preliminary determinations on dumping and injury and shall refer to the matters of fact and law which have led to arguments being accepted or rejected. Such a notice shall, due regard being paid to the requirement for the protection of confidential information, contain:

- (a) the names of the suppliers, or when this is impracticable, the supplying countries involved;
- (b) a description of the product which is sufficient for customs purposes;
- (c) the margins of dumping established and a full explanation of the reasons for the methodology used in the establishment and comparison of the export price and the normal value under Article 2;
- (d) considerations relevant to the injury determination as set out in Article 3
- (e) the main reasons leading to the determination;
- (f) any other information which the Ministry of Industry and Trade deems appropriate for the understanding of the factual and legal situation.

2. This notice shall be forwarded to the Member or Members the products of which are subject to such determination and to other interested parties known to have an interest therein.

Article 47

Duration of Application of Provisional Measures

Provisional measures shall be applied for a period not exceeding six months.

2. The Ministry of Industry and Trade may, upon request by exporters representing not less than 50 per cents of the trade involved, extend the period of application of provisional duties up to a period not exceeding nine months.

Article 48

Application of Title IV

Articles 54, 55, 56, 57. and 58 shall be followed in the application of provisional measures.

TITLE III PRICE UNDERTAKNGS

Article 49

Principles

1 1. Proceedings may be suspended or terminated without the imposition of provisional measures or anti-dumping duties upon receipt of satisfactory voluntary undertakings from any exporter to revise its prices or to cease exports to the area in question at dumped prices so that the authorities are satisfied that the injurious effect of the dumping is eliminated.

2. Price increases under such undertakings shall not be higher than necessary to eliminate the margin of dumping. The price increases may be less than the margin of dumping if the Ministry of Industry and Trade determines that such an increase would be adequate to remove the injury to the domestic industry.

3. Price undertakings may be suggested by the Ministry of Industry and Trade, but no exporter shall be forced to enter into such an undertaking. 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 Ministry of Industry and Trade shall be free to determine that a threat of injury is more likely to be realized if the dumped imports continue.

Article 50

Conditions for acceptance

1. Price undertakings shall not be sought or accepted from exporters unless the Ministry of Industry and Trade has made a preliminary affirmative determination of dumping and injury caused by such dumping.

2. Undertakings offered need not be accepted if the Ministry of Industry and Trade considers their acceptance 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 Ministry of Industry and Trade shall provide to the exporter the reasons which have led it to consider acceptance of an undertaking as inappropriate. To the extent possible, the exporter shall have an opportunity to make comments thereon.

2. The Ministry of Industry and Trade may require any exporter from whom undertakings have been accepted to provide periodically information relevant to the fulfillment of such undertakings, and to permit verification of pertinent data. The communication of these data shall be subject to the relevant provisions of Article 36 on confidentiality.

Article 51

Completion of the investigation

1. Simultaneous continuation of proceedings with the implementation of price undertakings shall not be possible except as provided in paragraph 2.
2. If one or more undertakings are accepted, the investigation of dumping and injury shall nevertheless be completed if the exporter so desires or the Ministry of Industry and Trade so decides. In such a case, if a negative determination of dumping or injury is made, the undertaking shall automatically lapse except in cases where such a determination is due in large part to the existence of a price undertaking. In such cases the Ministry of Industry and Trade may require that an undertaking be maintained for a reasonable period consistent with the provisions of this regulation. In the event that an affirmative determination of dumping and injury is made, the undertaking shall continue consistent with its terms and the provisions of this regulation.

Article 52

Violation of Undertakings

In case of violation of undertakings, the Ministry of Industry and Trade may take, in conformity with the provisions of this regulation, expeditious actions which may constitute immediate application of provisional measures using the best information available. In such cases, definitive duties may be levied in accordance with this regulation on goods entered for consumption not more than ninety days before the application of such provisional measures, except that any such retroactive assessment shall not apply to imports entered before the violation of the undertaking.

Article 53

Public Notice of Conclusion or Suspension of an Investigation in the Case of an Affirmative Determination Providing for the Acceptance of a Price Undertaking

1. Price undertakings shall be applicable as of the date of their publication. As soon as an undertaking is adopted, a public notice shall be published in [the Official Journal and/or published in two newspapers of large dissemination in Jordan]. The public notice shall set forth all relevant information on the matters of fact and law and reasons which have led to the acceptance of a price undertaking, due regard being paid to the requirement for the protection of confidential information. The notice shall in particular contain the relevant information described in Article 46.
2. A public notice of the termination or suspension of an investigation following the acceptance of an undertaking shall include the non-confidential part of this undertaking.
3. This notice shall be forwarded to the Member or Members the products of which are subject to such determination and to other interested parties known to have an interest therein.

TITLE IV IMPOSITION AND COLLECTION OF ANTI-DUMPING DUTIES

Article 54

Permissiveness and Lesser Duty Rule

1. When the Ministry of Industry and Trade has determined that all requirements for the imposition of anti-dumping measures have been fulfilled, it shall examine whether the imposition of such measures would be in the interest of Jordan. Consideration of the Jordan interest shall include in addition to the interest of the domestic industry concerned, the situation of domestic competition for the product under investigation, the needs of industrial users and the interest of final consumers where applicable.
2. The Ministry of Industry and Trade shall examine whether a duty less than the full margin of dumping would be adequate to remove the injury to the domestic industry. Where the Ministry of Industry and Trade determines that such a lesser duty would be adequate to remove the injury, the amount of the final anti-dumping duty imposed shall not exceed that lesser duty.

Article 55

Collection of Anti-Dumping Duties

Anti-dumping duties shall be collected by competent authorities in the appropriate amounts on a non-discriminatory basis on imports of such product from all sources found to be dumped and causing injury, except as to imports from those sources from which price undertakings under the terms of this regulation have been accepted. The Ministry of Industry and Trade shall name the supplier or suppliers of the product concerned. If, however, several suppliers from the same country are

involved, and it is impracticable to name all these suppliers, the Ministry of Industry and Trade may decide to name the supplying country concerned. If several suppliers from more than one country are involved, the Ministry of Industry and Trade may name either all the suppliers involved, or, if this is impracticable, all the supplying countries involved.

Article 56

Imposition of Duties in Cases Involving Producers in a Certain Area of Jordan

When the Ministry of Industry and Trade has interpreted the domestic industry as referring to the producers in a certain area, i.e., a market as defined in Article 20, anti-dumping duties shall be levied only on the products in question consigned for final consumption to that area.

Article 57

Imposition of Anti-Dumping Duties when Sampling Was Used in the Investigation

When the Ministry of Industry and Trade has limited its examination in accordance with Article 14, any anti-dumping duty applied to imports from exporters or producers not included in the examination shall not exceed:

- (a) the weighted average margin of dumping established with respect to the selected exporters or producers or,
- (b) where the liability for payment of anti-dumping duties is calculated on the basis of a prospective normal value, the difference between the weighted average normal value of the selected exporters or producers and the export prices of exporters or producers not individually examined,

provided that the Ministry of Industry and Trade shall disregard for the purpose of this Article any zero and *de minimis* margins and margins established under the circumstances referred to in Article 43. The Ministry of Industry and Trade shall apply individual duties or normal values to imports from any exporter or producer not included in the examination who has provided the necessary information during the course of the investigation, as provided for in Article 38.

Article 58

Public Notice of Conclusion of an Investigation in the Case of an Affirmative Determination Providing for the Imposition of a Definitive Duty

1. A decision to impose definitive duties shall be applicable as of the date of its publication. As soon as a decision to impose definitive duties is adopted, a public notice shall be published in [the Official Journal and/or published in two newspapers of large dissemination in Jordan]. The public notice shall set forth all relevant information on the matters of fact and law and reasons which have led to

the imposition of definitive duties, due regard being paid to the requirement for the protection of confidential information. The notice shall in particular contain the relevant information described in Article 46, as well as the reasons for the acceptance or rejection of relevant arguments or claims made by the exporters and importers, and the basis for any decision made under Article 57.

2. This notice shall be forwarded to the Member or Members the products of which are subject to such determination and to other interested parties known to have an interest therein.

3. The provisions of this Article shall apply *mutatis mutandis* to decisions under Title V of Part IV to apply duties retroactively, and to the completion of reviews pursuant to Part V.

Article 59

Assessment of the Anti-Dumping Duties

1. The amount of the anti-dumping duty shall not exceed the margin of dumping as established pursuant to Title I of Part II.

2. Refund shall be made, upon request, of any duty paid in excess of the margin of dumping. A refund of any such duty paid in excess of the actual margin of dumping shall normally take place within 12 months, and in no case more than 18 months, after the date on which a request for a refund, duly supported by evidence, has been made by an importer of the product subject to the anti-dumping duty. The refund authorized should normally be made within 90 days of the above-noted decision.

3. In determining whether and to what extent a refund should be made when the export price is constructed on the basis of the price at which the imported products are first resold to an independent buyer due to the absence of export price or because it appears that the export price is unreliable pursuant to Article 9, paragraph 2, the Ministry of Industry and Trade should take account of any change in normal value, any change of costs incurred between importation and resale, and any movement in the resale price which is duly reflected in subsequent selling prices, and should calculate the export price with no deduction for the amount of anti-dumping duties paid when conclusive evidence of the above is provided.

TITLE V RETROACTIVITY

Article 60

Principle

Provisional measures and anti-dumping duties shall only be applied to products which enter for consumption after the time when the decision taken under Titles II and IV respectively, enters into force, subject to the exceptions set out in this Title.

Article 61

Definitive Collection of Provisional Duties

1. Where the Ministry of Industry and Trade makes a final determination of injury (but not of a threat thereof or of material retardation of the establishment of an industry) or, in the case of a final determination of a threat of injury, where the Ministry of Industry and Trade considers that the effect of the dumped imports would, in the absence of the provisional measures, have led to a determination of injury, anti-dumping duties may be levied retroactively for the period for which provisional measures, if any, have been applied.

2. If the definitive anti-dumping duty is higher than the provisional duty paid or payable, or the amount estimated for the purpose of the 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 the security, the difference shall be reimbursed or the duty recalculated, as the case may be.

3. Except as provided in paragraph 1 above, where a determination of threat of injury or material retardation is made (but no injury has yet occurred) a definitive anti-dumping duty may be imposed only from the date of the determination of threat of injury or material retardation and any cash deposit made during the period of the application of provisional measures shall be refunded and any bonds released within 30 days.

4. 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 within 30 days. If provisional duties have been collected, any duty collected until the date of application of the final determination shall be reimbursed within 30 days, together with legal interest rates accumulated since their collection.

Article 62

Retroactive Application of Measures

1. A definitive anti-dumping duty may be levied on products which were entered for consumption not more than 90 days prior to the date of application of provisional measures, when the Ministry of Industry and Trade determines for the dumped product in question that:

- (a) there is a history of dumping which caused injury or that the importer was, or should have been, aware that the exporter practices dumping and that such dumping would cause injury, and
- (b) the injury is caused by massive dumped imports of a product in a relatively short 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. The importers concerned shall be given an opportunity to comment.

2. The Ministry of Industry and Trade may, after initiating an investigation, take such measures as the withholding of appraisement or assessment as may be necessary to collect anti-dumping duties retroactively as provided for in paragraph 1 of this Article, once it has sufficient evidence that the conditions set forth in that paragraph are satisfied.

3. No duties shall be levied retroactively pursuant to paragraph 1 of this Article, on products entered for consumption prior to the date of initiation of the investigation.

PART V: DURATION AND REVIEW OF ANTI-DUMPING DUTIES AND PRICE UNDERTAKINGS

Article 63

Principles

An anti-dumping duty shall remain in force only as long as and to the extent necessary to counteract dumping which is causing injury.

Article 64

Sunset Review

Any definitive anti-dumping measure shall be terminated on a date not later than five years from its imposition or from the date of the most recent review under Article 65 if that review has covered both dumping and injury, unless the Ministry of Industry and Trade determines, in a review initiated before that date on its own initiative or upon a duly substantiated request made by or on behalf of the domestic industry within 45 days from the notice of impending termination of the definitive anti-dumping measures concerned, that the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury. The duty may remain in force pending the outcome of such a review.

Article 65

Review for Change of Circumstances

1. The Ministry of Industry and Trade shall review the need for the continued imposition of the duty, where warranted, on its own initiative or, provided that a reasonable period of time has elapsed since the imposition of the definitive anti-dumping duty, upon request by any interested party which submits positive information substantiating the need for a review.

2. A determination of final liability for payment of anti-dumping duties does not by itself constitute a review within the meaning of this Article.

3. In conducting a review under this article, the Ministry of Industry and Trade shall, upon request from any interested party, examine whether the continued imposition of the duty is necessary to offset dumping, whether the injury would be likely to continue or recur if the duty were removed or varied, or both. If as a result of the review under this Article the Ministry of Industry and Trade determines that the anti-dumping duty is no longer warranted, it shall be terminated immediately.

Article 66

Newcomer Review

1. If a product is subject to anti-dumping duties, the Ministry of Industry and Trade shall promptly carry out a review for the purpose of determining individual margins of dumping for any exporters or producers in the exporting country in question who have not exported the product to Jordan 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 who are subject to the anti-dumping duties on the product. Such a review shall be initiated within 30 days following the date of receipt of the application by the producer or exporter concerned. The review shall normally be completed within six months from its initiation and, in any event, no later than twelve months.

2. No anti-dumping duties shall be levied on imports from such exporters or producers while the review is being carried out. The Ministry of Industry and Trade may, however, withhold appraisement and/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.

Article 67

Review of Price Undertakings

The provisions of this Part shall *mutatis mutandis* apply to price undertakings accepted under Title III of Part IV.

Article 68

Evidence and procedure

The relevant provisions of Part III of this regulation shall apply to any review carried out under this Part. Any such review shall be carried out expeditiously and shall normally be concluded within twelve months of the date of initiation of the review.

PART VI: JUDICIAL REVIEW

Article 69

Principles

Courts shall be competent for reviewing administrative actions relating to initiation, conduct and provisional and final determinations and reviews of determinations within the meaning of Part V of this regulation. Such tribunals or procedures shall be independent of the authorities responsible for the determination or review in question.

PART VII: FINAL PROVISIONS

Article 70

Annexes

Annexes I and II shall be integral part of this regulation.

Article 71

Entry into forces

1. This regulation shall enter into force on [...].

ANNEX I

Procedures for On-The-Spot Investigations Pursuant to Article 37

Upon initiation of an investigation, the authorities of the exporting country and the firms known to be concerned should be informed of the intention to carry out on-the-spot investigations.

2. If in exceptional circumstances it is intended to include non-governmental experts in the investigating team, the firms and the authorities of the exporting country should be so informed. Such non-governmental experts should be subject to effective sanctions for breach of confidentiality requirements.
3. It should be standard practice to obtain explicit agreement of the firms concerned in the exporting country before the visit is finally scheduled.
4. As soon as the agreement of the firms concerned has been obtained the Ministry of Industry and Trade should notify the authorities of the exporting country of the names and addresses of the firms to be visited and the dates agreed.
5. Sufficient advance notice should be given to the firms in question before the visit is made.
6. Visits to explain the questionnaire should only be made at the request of an exporting firm. Such a visit may only be made if the Ministry of Industry and Trade notifies the representatives of the government of the country in question and unless the latter do not object to the visit.
7. As the main purpose of the on-the-spot investigation is to verify information provided or to obtain further details, it should be carried out after the response to the questionnaire has been received unless the firm agrees to the contrary and the government of the exporting country is informed by the Ministry of Industry and Trade of the anticipated visit and does not object to it; further, it should be standard practice prior to the visit to advise the firms concerned if the general nature of the information to be verified and of any further information which needs to be provided, though this should not preclude requests to be made on the spot for further details to be provided in the light of information obtained.
8. Inquiries or questions put by the authorities or firms of the exporting countries and essential to a successful on-the-spot investigation should, whenever possible, be answered before the visit is made.

ANNEX II

Reliance on Available Information

As soon as possible after the initiation of the investigation, the Ministry of Industry and Trade should specify in detail the information required from any interested party, and the way in which that information should be structured by the interested party in its response. The Ministry of Industry and Trade should also ensure that the party is aware that if information is not supplied within a reasonable time, the Ministry of Industry and Trade will be free to make determinations on the basis of the facts available, including those contained in the request for the initiation of the investigation by the domestic industry.

2. The Ministry of Industry and Trade may also request that an interested party provide its response in a particular medium (e.g., computer tape) or computer language. Where such a request is made, the Ministry of Industry and Trade should consider the reasonable ability of the interested party to respond in the preferred medium or computer language, and should not request the company to use for its response a computer system other than that used by the firm. The Ministry of Industry and Trade should not maintain a request for a computerized response, if the interested party does not maintain computerized accounts and if presenting the response as requested would result in an unreasonable extra burden on the interested party, e.g., it would entail unreasonable additional cost and trouble. The Ministry of Industry and Trade should not maintain a request for a response in a particular medium or computer language if the interested party does not maintain its computerized accounts in such medium or computer language and if presenting the response as requested would result in an unreasonable extra burden on the interested party, e.g., it would entail unreasonable additional cost and trouble.
3. All information which is verifiable, which is appropriately submitted so that it can be used in the investigation without undue difficulties and which is supplied in a timely fashion, and, where applicable, supplied in a medium or computer language requested by the Ministry of Industry and Trade, should be taken into account when determinations are made. If a party does not respond in the preferred medium or computer language but the Ministry of Industry and Trade finds that the circumstances set out in paragraph 2 have been satisfied, this should not be considered to significantly impede the investigation.
4. Where the Ministry of Industry and Trade do not have the ability to process information if provided in a particular medium (e.g., computer tape) the information should be supplied in the form of written material or any other form acceptable to the Ministry of Industry and Trade.
5. Even though the information provided may not be ideal in all respects, this should not justify the Ministry of Industry and Trade from disregarding it provided the interested party has acted to the best of its ability.

6. If evidence or information is not accepted, the supplying party should be informed forthwith of the reasons thereof and have an opportunity to provide further explanations within a reasonable period, due account being taken of the time-limits of the investigation. If the explanations are considered by the Ministry of Industry and Trade as not being satisfactory, the reasons for rejection of such evidence or information should be given in any published findings.

7. If the Ministry of Industry and Trade has to base its determinations, including those with respect to normal value, on information from a secondary source, including the information supplied in the request for the initiation of the investigation, they should do so with special circumspection. In such cases, the Ministry of Industry and Trade should, where practicable, check the information from other independent sources at their disposal, such as published price lists, official import statistics and customs returns, and from the information obtained from other interested parties during the investigation. It is clear, however, that if an interested party does not cooperate and thus relevant information is being withheld, this situation could lead to a result which is less favorable to the party than if they did cooperate.

ANNEX C

BOOK 2

SUBSIDIES AND COUNTERVAILING MEASURES

Article 1. Scope. The Ministry may apply countervailing duty on a product imported into the territory of Jordan only if it has determined, pursuant to an investigation conducted in accordance with the provisions of this Law and regulations issued pursuant to this Law, that the investigated product is being imported into the Kingdom at a subsidized price, or benefiting from a subsidy bestowed on the products in the country of production, and such subsidized imported product causes or threatens material injury to an established industry, or materially retards the establishment of a domestic industry.

Article 2. Definitions. For the purposes of this Law:

- (h) the term “**initiation**” shall mean the procedural action by which the Ministry formally commences an investigation as provided in regulations issued pursuant to this Law;
- (i) the term “**Ministry of Industry and Trade**” shall mean the national administration in charge of administering the subsidies and countervailing measures legislation of Jordan in general and where required by this Law, at the appropriate senior level;
- (j) the term “**domestic industry**” shall mean the domestic producers as a whole of the like products or those of them whose collective output of the products constitutes a major proportion of the total domestic production of those products, except that
 - (i) when producers are related to the exporters or importers or are themselves importers of the allegedly subsidized product, the term “**domestic industry**” shall refer to the rest of the producers. For the purposes of this Law, producers shall be deemed to be related to exporters or importers only if (a) one of them directly or indirectly controls the other; or (b) both of them are directly or indirectly controlled by a third person; or (c) together they directly or indirectly control a third person, 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.

- (k) the term “**interested parties**” shall mean
 - (iv) an exporter or foreign producer or the importer of a product subject to investigation, or a trade or business association a majority of the members of which are producers, exporters or importers of such product;
 - (v) the government of the exporting country;
 - (vi) a producer of the like product in Jordan or a trade and business association a majority of the members of which produce the like product in Jordan.
- (l) the term “**like product**” shall mean a product which is identical, i.e., alike in all respects to the product under consideration 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 consideration;
- (m) the term “**injury**”, unless otherwise specified, shall mean material injury to an industry of Jordan, threat of material injury to a domestic industry or material retardation of the establishment of such an industry and shall be interpreted in accordance with the provisions regulations
- (n) the term “**levy**” shall mean the definitive or final assessment or collection of a duty or tax.

Article 3. Principles

- a. A countervailing duty may be imposed for the purpose of offsetting any subsidy granted, directly or indirectly, for the manufacture, production, export or transport of any product whose release for free circulation in Jordan causes injury.
- b. For the purpose of this Law, a product is considered as being subsidized if it benefits from a countervailable subsidy as defined in Articles 4??? And 5???.
- c. Such subsidy may be granted by the government of the country of origin of the imported product, or by the government of an intermediate country from which the product is exported to Jordan, known for the purposes of this Law as “the country of export.”

The term "government" is defined, for the purposes of this Law as a government or any public body within the territory of the country of origin or export.

- d. Notwithstanding paragraphs 1, 2, and 3, where products are not directly imported from the country of origin but are exported to Jordan from an intermediate country, the provisions of this regulation shall be fully applicable and the transaction or transactions shall, where appropriate, be regarded as having taken place between the country of origin and Jordan.
- e. For the purpose of this Law, the term "like product" shall be interpreted to mean a product which is identical, that is to say, alike in all respects, to the product under consideration, 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 consideration.

Article 4. Definition of a Subsidy

A subsidy shall be deemed to exist if:

- (a) there is a financial contribution by a government in the country of origin or export, that is to say, where:
 - (i) a government practice involves a direct transfer of funds (for example, grants, loans, equity infusion), potential direct transfers of funds or liabilities (for example, loan guarantees);

government revenue that is otherwise due is forgone or not collected (for example, fiscal incentives such as tax credits); in this regard, the exemption of an exported product from duties or taxes borne by the like product when destined for domestic consumption, or the remission of such duties or taxes in amounts not in excess of those which have been accrued, shall be deemed to be a subsidy, provided that such an exemption is granted in accordance with the provisions of Annexes I to III;

a government provides goods or services other than general infrastructure, or purchases goods;

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 illustrated in points (i), (ii)

and (iii) which would normally be vested in the government, and the practice in no real sense, differs from practices normally followed by governments; or

- (b) There is any form of income or price support within the meaning of Article XVI of the GATT 1994; and
2. a benefit is thereby conferred.

Article 5. Countervailable Subsidies

Subsidies shall be subject to countervailing measures only if they are 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, and the amount of, a subsidy, specificity shall not exist, provided that the eligibility is automatic and that such criteria and conditions are strictly adhered to.

For the purpose of this Article, objective criteria or conditions mean criteria or conditions which are neutral, which do not favor certain enterprises over others, and which are economic in nature and horizontal in application, such as number of employees or size of enterprise.

The criteria or conditions must be clearly spelled out by law, regulation, or other official documents, so as to be capable of verification;

- (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, predominant use by certain enterprises, the granting of disproportionately large amounts of subsidy to certain enterprises, and the manner in which discretion has been exercised by the granting authority in

the decision to grant a subsidy. In this regard, information on the frequency with which applications for a subsidy are refused or approved and the reasons for such decisions shall, in particular, be considered.

In applying the first sub-paragraph, account shall be taken of the extent of 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. 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 purposes of this regulation.
4. Notwithstanding paragraphs 2 and 3, the following subsidies shall be deemed to be specific:
 - (a) Subsidies contingent, in law or in fact, whether solely or as one of several other conditions, upon export performance, including those illustrated in Annex I.

Subsidies shall be considered to be contingent in fact upon export performance when the facts demonstrate that the granting of a subsidy, without having been made legally contingent upon export performance, is in fact tied to actual or anticipated exportation or export earnings. The mere fact that a subsidy is accorded to enterprises which export shall not for that reason alone be considered to be an export subsidy within the meaning of this provision.
 - (b) Subsidies contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods.
5. Any determination of specificity under the provisions of this Article shall be clearly substantiated on the basis of positive evidence.

Article 6. Non-countervailable Subsidies

The following subsidies shall not be subjected to countervailing measures:

- (a) Subsidies which are not specific within the meaning of Article 3(2) and (3).
- (b) Subsidies which are specific, within the meaning of Article 3(2) and (3), but which meet the conditions provided for in paragraphs 2, 3 or 4 of this article.

2. Subsidies for research activities conducted by firms or by higher education or research establishments on a contract basis with firms shall not be subject to countervailing measures, if the subsidies cover not more than 75% of the costs of industrial research or 50% of the costs of pre-competitive development activity, and provided that such subsidies are limited exclusively to:
- personnel costs (researchers, technicians and other supporting staff employed exclusively in the research activity);
 - costs of instruments, equipment, land and buildings used exclusively and permanently (except when disposed of on a commercial basis) for the research activity;
 - costs of consultancy and equivalent services used exclusively for the research activity, including bought-in research, technical knowledge, patents, etc.;
 - additional overhead costs incurred directly as a result of the research activity;
 - other running costs (such as those of materials, supplies and the like), incurred directly as a result of the research activity.

For the purpose of the first sub-paragraph:

- (a) the allowable levels of non-countervailable subsidy referred to in this paragraph shall be established by reference to the total eligible costs incurred over the duration of an individual project.
 - In the case of programs which span both 'industrial research' and 'pre-competitive development activity', the allowable level of non-countervailable subsidy shall not exceed the simple average of the allowable levels of non-countervailable subsidy applicable to the above two categories, calculated on the basis of all eligible costs as set forth in points (a) to (e) of the first sub-paragraph;
- (b) the term 'industrial research' means planned search or critical investigation aimed at discovery of new knowledge, with the objective that such knowledge may be useful in developing new products, processes or services, or in bringing about a significant improvement to existing products, processes or services;
- (c) the term 'pre-competitive development activity' means the translation of industrial research findings into a plan, blueprint or design for new, modified or improved products, processes or services whether intended for sale or use, including the creation of a first prototype which would not be capable of commercial use. It may further include the conceptual formulation and design of products, processes or services alternatives and initial demonstration or pilot projects, provided that these same projects cannot be converted or used for industrial application or commercial exploitation. It does not include routine or periodic alterations to existing products, production lines, manufacturing process, services, and other on-going operations even though those alterations may represent improvements.

3. Subsidies to disadvantaged regions within the territory of the country of origin and/or export, given pursuant to a general framework of regional development, and which would be non-specific if the criteria laid down in Article 3(2) and (3) were applied to each eligible region concerned, shall not be subject to countervailing measures, provided that:

each disadvantaged region is a clearly designated contiguous geographical area with a definable economic and administrative identity;

the region is considered as disadvantaged on the basis of neutral and objective criteria, indicating that the region's difficulties arise out of more than temporary circumstances; such criteria must be clearly spelled out by law, regulation, or other official document, so as to be capable of verification;

the criteria mentioned under (b) include a measurement of economic development which shall be based on at least one of the following factors:

either income per capita or household income per capita, or GDP per capita, which must not be above 85% of the average for the territory of the country of origin or export concerned,

unemployment rate, which must be at least 110% of the average for the territory of the country of origin or export concerned;

as measured over a three-year period; such measurement, however, may be a composite one and may include other factors.

For the purpose of the first sub-paragraph

- (a) a 'general framework of regional development' means that regional subsidy programs are part of an internally consistent and generally applicable regional development policy and that regional development subsidies are not granted in isolated geographical points having no, or virtually no, influence on the development of a region;
- (b) 'neutral and objective criteria' means criteria which do not favor certain regions beyond what is appropriate for the elimination or reduction of regional disparities within the framework of the regional development policy. In this regard, regional subsidy programs shall include ceilings on the amount of subsidy which can be granted to each subsidized project. Such ceilings must be differentiated according to the different levels of development of eligible regions and must be expressed in terms of investment costs or the cost of job creation. Within such ceilings, the distribution of subsidy shall be sufficiently broad and even to avoid the predominant use of a subsidy by, or the granting of disproportionately large amounts of subsidy to, certain enterprises.

This provision shall be applied in the light of the criteria set out in Article 3(2) and (3).

4. Subsidies to promote adaptation of existing facilities to new environmental requirements imposed by law and/or regulations which result in greater constraints and financial burden on firms, shall not be subject to countervailing measures, provided that the subsidy:

(c) is a one-time non-recurring measure; and

is limited to 20% of the cost of adaptation; and

does not cover the cost of replacing and operating the subsidized investment, which must be fully borne by firms; and

(f) is directly linked to and proportionate to a firm's planned reduction of nuisances and pollution, and does not cover any manufacturing cost savings which may be achieved; and

is available to all firms which can adopt the new equipment and/or production processes.

For the purpose of the first sub-paragraph the term 'existing facilities' means facilities having been in operation for at least two years at the time when new environmental requirements are imposed.

ANNEX D

DRAFT REGULATIONS FOR COUNTERVAILING DUTIES

(June 1999)

**Issued Pursuant to Article 15 of the National Production
Protection Law (No.4) Dated 1 October 1998**

PART 1: PRINCIPLES AND DEFINITIONS

Article 1

Scope

- 1 This regulation shall be named "Countervailing Duty Regulations for Implementation of the Law on National Production Protection of Jordan," issued pursuant to Article 15 of the Law, and shall be enforced from the date of publication in the Official gazette.
- 2 The Ministry of Industry and Trade may apply a countervailing duty on a product imported into the territory of Jordan only if it has determined, pursuant to an investigation conducted in accordance with the provisions of the Law on National Production Protection of Jordan and this regulation, that the investigated product is being imported into the Kingdom at a subsidized price, or benefiting from a subsidy bestowed on the products in the country of production, and such imported product causes or threatens material injury to an established industry, or materially retards the establishment of a domestic industry.

Article 2

Principles

A countervailing duty may be imposed for the purpose of offsetting any subsidy granted, directly or indirectly, for the manufacture, production, export or transport of any product whose release for free circulation in Jordan causes injury.

- 2 For the purpose of this regulation, a product is considered as being subsidized if it benefits from a countervailable subsidy as defined in Articles 2 and 3.
- 3 Such subsidy may be granted by the government of the country of origin of the imported product, or by the government of an intermediate country from which the product is exported to Jordan, known for the purpose of this regulation as "the country of export".

The term "government" is defined, for the purposes of this regulation as a government or any public body within the territory of the country of origin or export.

- 4 Notwithstanding paragraphs 1, 2 and 3, where products are not directly imported from the country of origin but are exported to Jordan from an intermediate country, the provisions of this regulation shall be fully applicable and the transaction or transactions shall, where appropriate, be regarded as having taken place between the country of origin and Jordan.

5. For the purpose of this regulation, the term "like product" shall be interpreted to mean a product which is identical, that is to say, alike in all respects, to the product under consideration, 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 consideration.

Article 3

Definition of a subsidy

A subsidy shall be deemed to exist if:

- II. (a)
- (i) a government practice involves a direct transfer of funds (for example, grants, loans, equity infusion), potential direct transfers of funds or liabilities (for example, loan guarantees);
- (ii) government revenue that is otherwise due is forgone or not collected (for example, fiscal incentives such as tax credits); in this regard, the exemption of an exported product from duties or taxes borne by the like product when destined for domestic consumption, or the remission of such duties or taxes in amounts not in excess of those which have been accrued, shall not be deemed to be a subsidy, provided that such an exemption is granted in accordance with the provisions of Annexes I to III;
- a government provides goods or services other than general infrastructure, or purchases goods;
- 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 illustrated in points (i) (ii) and (iii) which would normally be vested in the government, and the practice, in no real sense, differs from practices normally followed by governments; or
- (b) there is any form of income or price support within the meaning of Article XVI of the GATT 1994; and
- III. a benefit is thereby conferred.

Article 4

Countervailable subsidies

2. Subsidies shall be subject to countervailing measures only if they are specific, as defined in paragraphs 2, 3 and 4.

IV. 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, and the amount of, a subsidy, specificity shall not exist, provided that the eligibility is automatic and that such criteria and conditions are strictly adhered to.

For the purpose of this Article, objective criteria or conditions mean criteria or conditions which are neutral, which do not favor certain enterprises over others, and which are economic in nature and horizontal in application, such as number of employees or size of enterprise.

The criteria or conditions must be clearly spelled out by law, regulation, or other official documents, so as to be capable of verification;

- (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, predominant use by certain enterprises, the granting of disproportionately large amounts of subsidy to certain enterprises, and the manner in which discretion has been exercised by the granting authority in the decision to grant a subsidy. In this regard, information on the frequency with which applications for a subsidy are refused or approved and the reasons for such decisions shall, in particular, be considered.

In applying the first sub-paragraph, account shall be taken of the extent of 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.

V. A subsidy which is limited to certain enterprises located within a designated geographical region within the jurisdiction of the granting authority shall be specific. 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 purposes of this regulation.

VI. Notwithstanding paragraphs 2 and 3, the following subsidies shall be deemed to be specific:

- (a) Subsidies contingent, in law or in fact, whether solely or as one of several other conditions, upon export performance, including those illustrated in Annex I.

Subsidies shall be considered to be contingent in fact upon export performance when the facts demonstrate that the granting of a subsidy, without having been made legally contingent upon export performance, is in fact tied to actual or anticipated exportation or export earnings. The mere fact that a subsidy is accorded to enterprises which export shall not for that reason alone be considered to be an export subsidy within the meaning of this provision.

- (b) Subsidies contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods.

VII. Any determination of specificity under the provisions of this Article shall be clearly substantiated on the basis of positive evidence.

Article 5

Non-countervailable subsidies

3. The following subsidies shall not be subjected to countervailing measures:

- (a) Subsidies which are not specific within the meaning of Article 3(2) and (3).
- (b) Subsidies which are specific, within the meaning of Article 3(2) and (3), but which meet the conditions provided for in paragraphs 2, 3 or 4 of this article.

VIII. Subsidies for research activities conducted by firms or by higher education or research establishments on a contract basis with firms shall not be subject to countervailing measures, if the subsidies cover not more than 75% of the costs of industrial research or 50% of the costs of pre-competitive development activity, and provided that such subsidies are limited exclusively to:

- (a) personnel costs (researchers, technicians and other supporting staff employed exclusively in the research activity);
- (b) costs of instruments, equipment, land and buildings used exclusively and permanently (except when disposed of on a commercial basis) for the research activity;
- (c) costs of consultancy and equivalent services used exclusively for the research activity, including bought-in research, technical knowledge, patents, etc.;
- (d) additional overhead costs incurred directly as a result of the research activity;
- (e) other running costs (such as those of materials, supplies and the like), incurred directly as a result of the research activity.

For the purpose of the first sub-paragraph

- (f) the allowable levels of non-countervailable subsidy referred to in this paragraph shall be established by reference to the total eligible costs incurred over the duration of an individual project.

In the case of programs which span both 'industrial research' and 'pre-competitive development activity', the allowable level of non-countervailable subsidy shall not exceed the simple average of the allowable levels of non-countervailable subsidy applicable to the above two categories, calculated on the basis of all eligible costs as set forth in points (a) to (e) of the first sub-paragraph;

- (g) the term 'industrial research' means planned search or critical investigation aimed at discovery of new knowledge, with the objective that such knowledge may be useful in developing new products, processes or services, or in bringing about a significant improvement to existing products, processes or services;
- (h) the term 'pre-competitive development activity' means the translation of industrial research findings into a plan, blueprint or design for new, modified or improved products, processes or services whether intended for sale or use, including the creation of a first prototype which would not be capable of commercial use. It may further include the conceptual formulation and design of products, processes or services alternatives and initial demonstration or pilot projects, provided that these same projects cannot be converted or used for industrial application or commercial exploitation. It does not include routine or periodic alterations to existing products, production lines, manufacturing process, services, and other on-going operations even though those alterations may represent improvements.

IX. Subsidies to disadvantaged regions within the territory of the country of origin and/or export, given pursuant to a general framework of regional development, and which would be non-specific if the criteria laid down in Article 3(2) and (3) were applied to each eligible region concerned, shall not be subject to countervailing measures, provided that:

- (a) each disadvantaged region is a clearly designated contiguous geographical area with a definable economic and administrative identity;
- (b) the region is considered as disadvantaged on the basis of neutral and objective criteria, indicating that the region's difficulties arise out of more than temporary circumstances; such criteria must be clearly spelled out by law, regulation, or other official document, so as to be capable of verification;
- (c) the criteria mentioned under (b) include a measurement of economic development which shall be based on at least one of the following factors:

either income per capita or household income per capita, or GDP per capita, which must not be above 85% of the average for the territory of the country of origin or export concerned,

unemployment rate, which must be at least 110% of the average for the territory of the country of origin or export concerned;

as measured over a three-year period; such measurement, however, may be a composite one and may include other factors.

For the purpose of the first sub-paragraph

- (d) a 'general framework of regional development' means that regional subsidy programs are part of an internally consistent and generally applicable regional development policy and that regional development subsidies are not granted in isolated geographical points having no, or virtually no, influence on the development of a region;
- (e) 'neutral and objective criteria' means criteria which do not favor certain regions beyond what is appropriate for the elimination or reduction of regional disparities within the framework of the regional development policy. In this regard, regional subsidy programs shall include ceilings on the amount of subsidy which can be granted to each subsidized project. Such ceilings must be differentiated according to the different levels of development of eligible regions and must be expressed in terms of investment costs or the cost of job creation. Within such ceilings, the distribution of subsidy shall be sufficiently broad and even to avoid the predominant use of a subsidy by, or the granting of disproportionately large amounts of subsidy to, certain enterprises.

This provision shall be applied in the light of the criteria set out in Article 3(2) and (3).

X. Subsidies to promote adaptation of existing facilities to new environmental requirements imposed by law and/or regulations which result in greater constraints and financial burden on firms, shall not be subject to countervailing measures, provided that the subsidy:

- (a) is a one-time non-recurring measure; and
- (b) is limited to 20% of the cost of adaptation; and
- (c) does not cover the cost of replacing and operating the subsidized investment, which must be fully borne by firms; and
- (d) is directly linked to and proportionate to a firm's planned reduction of nuisances and pollution, and does not cover any manufacturing cost savings which may be achieved; and
- (e) is available to all firms which can adopt the new equipment and/or production processes.

For the purpose of the first sub-paragraph the term 'existing facilities' means facilities having been in operation for at least two years at the time when new environmental requirements are imposed.

PART 2: CALCULATION OF SUBSIDY

Article 6

Calculation of the amount of the countervailable subsidy

The amount of countervailable subsidies, for the purposes of this regulation shall be calculated in terms of the benefit conferred on the recipient which is found to exist during the investigation period for subsidization. Normally this period shall be the most recent accounting year of the beneficiary, but may be any other period of at least six months prior to the initiation of the investigation for which reliable financial and other relevant data are available.

Article 7

Calculation of benefit to the recipient

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

- (f) Government provision of equity capital shall not be considered as conferring 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 territory of the country of origin and/or export;
- (g) A loan by a 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 which the firm could actually obtain on the market. In this case the benefit shall be the difference between these two amounts;
- (h) A loan guarantee by a 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;
- (i) 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 provision or purchase (including price, quality, availability, marketability, transportation and other conditions of purchase or sale).

Article 8

General provisions on calculation

4. The amount of the countervailable subsidies shall be determined per unit of the subsidized product exported to Jordan.

In establishing this amount the following elements may be deducted from the total subsidy:

- (a) any application fee, or other costs necessarily incurred in order to qualify for, or to obtain, the subsidy;
- (b) export taxes, duties or other charges levied on the export of the product to Jordan specifically intended to offset the subsidy.

Where an interested party claims a deduction, it must prove that the claim is justified.

XI. Where the subsidy is not granted by reference to the quantities manufactured, produced, exported or transported, the amount of countervailable subsidy shall be determined by allocating the value of the total subsidy, as appropriate, over the level of production, sales or exports of the products concerned during the investigation period for subsidization.

XII. Where the subsidy can be linked to the acquisition or future acquisition of fixed assets, the amount of the countervailable subsidy shall be calculated by spreading the subsidy across a period which reflects the normal depreciation of such assets in the industry concerned. The amount so calculated which is attributable to the investigation period, including that which derives from fixed assets acquired before this period, shall be allocated as described in paragraph 2.

Where the assets are non-depreciating, the subsidy shall be valued as an interest-free loan, and be treated in accordance with Article 6(b).

XIII. Where a subsidy cannot be linked to the acquisition of fixed assets, the amount of the benefit received during the investigation period shall in principle be attributed to this period, and allocated as described in paragraph 2, unless special circumstances arise justifying attribution over a different period.

PART 3: INJURY

Article 9

Determination of injury

5. For the purposes of this regulation, the term 'injury' shall, unless otherwise specified, be taken to mean material injury to Jordan's industry, threat of material injury to Jordan's industry or material retardation of the establishment of such an industry and shall be interpreted in accordance with the provisions of this Article.

XIV. A determination of injury shall be based on positive evidence and shall involve an objective examination of both:

- (a) the volume of the subsidized imports and the effect of the subsidized imports on prices in Jordan's market for like products, and
- (b) the consequent impact of those imports on Jordan's industry.

XV. 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 Jordan. With regard to the effect of the subsidized imports on prices, consideration shall be given to whether there has been significant price undercutting by the subsidized imports as compared with the price of a like product of Jordan's industry, or whether the effect of such

imports is otherwise to depress prices to a significant degree or prevent price increases which would otherwise have occurred, to a significant degree. No one or more of these factors can necessarily give decisive guidance.

XVI. Where imports of a product from more than one country are simultaneously subject to countervailing duty investigations, the effects of such imports shall be cumulatively assessed only if it is determined that:

- (a) the amount of countervailable subsidies established in relation to the imports from each country is more than *de minimis* as defined in Article 14(5) and that the volume of imports from each country is not negligible; and
- (b) a cumulative assessment of the effects of the imports is appropriate in light of the conditions of competition between imported products and the conditions of competition between the imported products and the like Jordanian product.

XVII. The examination of the impact of the subsidized imports on Jordan's industry concerned shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including: the fact that an industry is still in the process of recovering from the effects of past subsidization or dumping, the magnitude of the amount of countervailable subsidies, actual and potential decline in sales, profits, output, market share, productivity, return on investments, utilization of capacity; factors affecting Jordanian prices; actual and potential negative effects on cash flow, inventories, employment, wages, growth and ability to raise capital or investments. This list is not exhaustive, nor can any one or more of these factors necessarily give decisive guidance.

XVIII. It must be demonstrated, from all the relevant evidence presented in relation to paragraph 2, that the subsidized imports are causing injury within the meaning of this regulation. Specifically, this shall entail a demonstration that the volume and/or price levels identified pursuant to paragraph 3 are responsible for an impact on Jordan's industry as provided for in paragraph 5, and that this impact exists to a degree which enables it to be classified as material.

XIX. Known factors other than the subsidized imports which at the same time are injuring Jordan's industry shall also be examined to ensure that injury caused by these other factors is not attributed to the subsidized imports pursuant to paragraph 6.

Factors which may be considered in this respect include the volume and prices of non-subsidized imports, contraction in demand or changes in the patterns of consumption, restrictive trade practices of, and competition between, third country and Jordanian producers, developments in technology and the export performance and productivity of Jordan's industry.

XX. The effect of the subsidized imports shall be assessed in relation to the production of Jordan's industry of the like product when available data permit the separate identification of that production on the basis of such criteria as the production process, producers' sales and profits. If such separate identification of that production is not possible, the effects of the subsidized imports shall be assessed by examination of the production of the narrowest group or range of products, which includes the like product, for which the necessary information can be provided.

XXI. A determination of a threat of material injury shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances which would create a situation in which the subsidy would cause injury must be clearly foreseen and imminent.

In making a determination regarding the existence of a threat of material injury, consideration should be given to, inter alia, such factors as:

- (a) the nature of the subsidy or subsidies in question and the trade effects likely to arise therefrom;
- (b) a significant rate of increase of subsidized imports into Jordan's market indicating the likelihood of substantially increased imports;
- (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 Jordan, account being taken of the availability of other export markets to absorb any additional exports;
- (d) whether imports are entering at prices that would, to a significant degree, depress prices or prevent price increases which otherwise would have occurred, and would probably increase demand for further imports; and
- (e) inventories of the product being investigated.

No one of the 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 10

Definition of Jordan's industry

6. For the purposes of this Decision, the term 'Jordan's industry' shall be interpreted as referring to Jordan's producers as a whole of the like products or to those of them whose collective output of the products constitutes a major proportion, as defined in Article 10(8), of the total of Jordan's production of those products, except that:

- (a) when producers are related to the exporters or importers or are themselves importers of the allegedly subsidized product, the term 'Jordan's industry' may be interpreted as referring to the rest of the producers;
- (b) * in exceptional circumstances the territory of Jordan may, for the production in question, be divided into two or more competitive markets and the producers within each market may be regarded as a separate industry if:
 - (i) the producers within such a market sell all or almost all of their production of the product in question in that market, and
 - (ii) the demand in that market is not to any substantial degree supplied by producers of the product in question located elsewhere in Jordan.

* In the case of Jordan, the division into competitive markets may not be justified and the provisions of sub-paragraph (b) of paragraph 1 and paragraph 3 consequently left out.

In such circumstances, injury may be found to exist even where a major portion of the total of Jordan's industry is not injured, provided there is a concentration of subsidized imports into such an isolated market and provided further that the subsidized imports are causing injury to the producers of all or almost all of the production within such a market.

XXII. For the purpose of paragraph 1, producers shall be considered to be related to exporters or importers only if:

- (a) one of them directly or indirectly controls the other; or
- (b) both of them are directly or indirectly controlled by a third person; or
- (c) together they directly or indirectly control a third person 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.

XXIII. Where Jordan's industry has been interpreted as referring to the producers in a certain region, the exporters or the government granting countervailable subsidies shall be given an opportunity to offer undertakings pursuant to Article 13 in respect of the region concerned. In such cases, when evaluating Jordan's interest of the measures, special account shall be taken of the interest of the region. If an adequate undertaking is not offered promptly or if the situations set out in Article 13(9) and (10) apply, a provisional or definitive countervailing duty may be imposed in respect of Jordan as a whole. In such cases the duties may, if practicable, be limited to specific producers or exporters.

XXIV. The provisions of Article 8(8) shall apply to this Article.

Article 11

Initiation of proceedings

7. Except as provided for in paragraph 10, an investigation to determine the existence, degree and effect of any alleged subsidy shall be initiated upon a written complaint by any natural or legal person, or any association not having legal personality, acting on behalf of Jordan's industry.

The complaint shall be deemed to have been lodged on the first working day following its delivery to the Ministry of Industry and Trade, appointed by the Government of Jordan to carry out tasks in relation to the protection against subsidized imports, by registered mail or the issuing of an acknowledgement of receipt by the Ministry of Industry and Trade.

XXV. A complaint as referred to in paragraph 1 shall include sufficient evidence of the existence of countervailable subsidies (including, if possible, of their amount), injury and a causal link between the allegedly subsidized imports and the alleged

injury. The complaint shall contain such information as is reasonably available to the complainant on the following:

- (a) identity of the complainant and a description of the volume and value of Jordan's production of the like product by the complainant. Where a written complaint is made on behalf of Jordan's industry, the complaint shall identify the industry on behalf of which the complaint is made by a list of all known Jordanian producers of the like product (or associations of Jordanian producers of the like product) and, to the extent possible, a description of the volume and value of Jordan's production of the like product accounted for by such producers;
- (b) a complete description of the allegedly subsidized product, the names of the country or countries of origin and/or export in question, the identity of each known exporter or foreign producer and a list of known persons importing the product in question;
- (c) evidence with regard to the existence, amount, nature and countervailability of the subsidies in question;
- (d) information on changes in the volume of the allegedly subsidized imports, the effect of those imports on prices of the like product in Jordan's market and the consequent impact of the imports on Jordan's industry, as demonstrated by relevant factors and indices having a bearing on the state of Jordan's industry, such as those listed in Article 8(3) and (5).

XXVI. The Ministry of Industry and Trade shall, as far as possible, examine the accuracy and adequacy of the evidence provided in the complaint to determine whether there is sufficient evidence to justify the initiation of an investigation.

XXVII.

An investigation may be initiated in order to determine whether or not the alleged subsidies are 'specific' within the meaning of Article 3(2) and (3).

XXVIII.

An investigation may also be initiated in respect of subsidies which are non-countervailable according to Article 4(2), (3) or (4) in order to determine whether or not the conditions laid down in those paragraphs have been met.

XXIX. If a subsidy is granted pursuant to a subsidy program which has been notified in advance of its implementation to the WTO Committee on Subsidies and Countervailing Measures in accordance with the provision of Article 8 of the Subsidies Agreement, and in respect of which the Committee has failed to determine that the relevant conditions laid down in Article 8 of the Subsidies Agreement have not been met, an investigation shall not be initiated in respect of a subsidy granted pursuant to such a program, unless a violation of Article 8 of the Subsidies Agreement has been ascertained by the competent WTO Dispute Settlement Body or through arbitration as provided in Article 8(5) of the Subsidies Agreement.

XXX. An investigation shall not be initiated pursuant to paragraph 1 unless it has been determined, on the basis of an examination as to the degree of support for, or opposition to, the complaint expressed by Jordan's producers of the like product, that the complaint has been made by or on behalf of Jordan's industry. The complaint shall be considered to have been made by or on behalf of Jordan's industry if it is supported by those Jordanian producers whose collective output constitutes more than 50% of the total production of the like product produced by that portion of Jordan's

industry expressing either support for or opposition to the complaint. However, no investigation shall be initiated when Jordanian producers expressly supporting the complaint account for less than 25% of total production of the like product produced by Jordan's industry.

XXXI. The Ministry of Industry and Trade shall avoid, unless a decision has been made to initiate an investigation, any publicizing of the complaint seeking the initiation of an investigation. However, as soon as possible after the receipt of a properly documented complaint pursuant to this Article, and in any event before the initiation of an investigation, the Ministry of Industry and Trade shall notify the country of origin and/or export concerned, which shall be invited for consultations with the aim of clarifying the situation as to matters referred to in paragraph 2 and arriving at a mutually agreed solution.

XXXII.

If, in special circumstances, the Ministry of Industry and Trade decides to initiate an investigation without having received a written complaint by or on behalf of Jordan's industry for the initiation of such investigation, this shall be done on the basis of sufficient evidence of the existence of countervailable subsidies, injury and causal link, as described in paragraph 2, to justify such initiation.

XXXIII.

The evidence of both subsidies and injury shall be considered simultaneously in the decision on whether or not to initiate an investigation. A complaint shall be rejected where there is insufficient evidence of either countervailable subsidies or of injury to justify proceeding with the case. Proceedings shall not be initiated against countries whose imports represent a market share of below 1%, unless such countries collectively account for 3% or more of Jordan's consumption.

XXXIV.

The complaint may be withdrawn prior to initiation, in which case it shall be considered not to have been lodged.

XXXV.

Where, after consultation, it is apparent that there is sufficient evidence to justify initiating a proceeding the Ministry of Industry and Trade shall do so within 45 days of the lodging of the complaint and shall publish a notice in the [Official Journal] of Jordan. Where insufficient evidence has been presented, the complainant shall, after consultation, be so informed within 45 days of the date on which the complaint is lodged with the Ministry of Industry and Trade.

XXXVI.

The notice of initiation of the proceedings shall announce the initiation of an investigation, indicate the product and countries concerned, give a summary of the information received and provide that all relevant information is to be communicated to the Ministry of Industry and Trade; it shall state the periods within which interested parties may make themselves known, present their views in writing and submit information, if such views and information are to be taken into account during the investigation; it shall also state the period within which interested parties may apply to be heard by the Ministry of Industry and Trade in accordance with Article 12(4).

XXXVII.

The Ministry of Industry and Trade shall advise the exporters, importers and representative associations of importers or exporters known to be concerned, as well as the country of origin and/or export and the complainants, of the initiation of the proceedings and, with due regard to the protection of confidential information,

provide the full text of the written complaint referred to in paragraph 1 to the known exporters and to the authorities of the country of origin and/or export, and make it available upon request to other interested parties involved. Where the number of exporters involved is particularly high, the full text of the written complaint may instead be provided only to the authorities of the country of origin and/or export or to the relevant trade association.

XXXVIII.

A countervailing duty investigation shall not hinder the procedures of customs clearance.

Article 12

The investigation

8. Following the initiation of the proceeding, the Ministry of Industry and Trade shall commence an investigation. Such investigation shall cover both subsidization and injury and these shall be investigated simultaneously. For the purpose of a representative finding, an investigation period shall be selected which, in the case of subsidization shall, normally, cover the investigation period provided for in Article 5. Information relating to a period subsequent to the investigation period shall, normally, not be taken into account.

XXXIX.

Parties receiving questionnaires used in a countervailing duty investigation shall be given at least 30 days to reply. The time limit for exporters shall be counted from the date of receipt of the questionnaire, which for this purpose shall be deemed to have been received one week from the day on which it was sent to the respondent or transmitted to the appropriate diplomatic representative of the country of origin and/or export. An extension to the 30 day period may be granted, due account being taken of the time limits of the investigation, provided that the party shows due cause for such extension, in terms of its particular circumstances.

XL. The Ministry of Industry and Trade shall carry out all necessary checks and inspections, particularly amongst importers, traders and producers, and carry out investigations in third countries, provided that the firms concerned give their consent and that the government of the country in question has been officially notified and raises no objection.

XLI. The interested parties which have made themselves known in accordance with Article 11(13), shall be heard if they have, within the period prescribed in the notice published in the [Official Journal] of Jordan, made a written request for a hearing showing that they are an interested party likely to be affected by the result of the proceeding and that there are particular reasons why they should be heard.

XLII. Opportunities shall, on request, be provided for the importers, exporters and the complainants, which have made themselves known in accordance with Article 11(13), and the government of the country of origin and/or export, to meet those parties with adverse interests, so that opposing views may be presented and rebuttal arguments offered. Provision of such opportunities must take account of the need to preserve confidentiality and of the convenience to the parties. There shall be no obligation on any party to attend a meeting, and failure to do so shall not be prejudicial to that party's case. Oral information provided under this paragraph shall be taken into account by the Ministry of Industry and Trade in so far as it is subsequently confirmed in writing.

XLIII. The complainants, the government of the country of origin and/or export, importers and exporters and their representative associations, users and consumer organizations, which have made themselves known in accordance with Article 11(13), may, upon written request, inspect all information made available to the Ministry of Industry and Trade by any party to an investigation, as distinct from internal documents prepared by the authorities of Jordan, which is relevant to the presentation of their cases and not confidential within the meaning of Article 29, and that it is used in the investigation. Such parties may respond to such information and their comments shall be taken into consideration, wherever they are sufficiently substantiated in the response.

XLIV. Except in circumstances provided for in Article 28, the information which is supplied by interested parties and upon which findings are based shall be examined for accuracy as far as possible.

XLV. For proceedings initiated pursuant to Article 11(12), an investigation shall, whenever possible, be concluded within one year. In any event, such investigations shall in all cases be concluded within 13 months of initiation, in accordance with the findings made pursuant to Article 14 for undertakings or the findings made pursuant to Article 15 for definitive action.

XLVI. Throughout the investigation the Ministry of Industry and Trade shall afford the country of origin and/or export a reasonable opportunity to continue consultations with a view to clarifying the factual situation and arriving at a mutually agreed solution.

Article 13

Provisional measures

9. Provisional duties may be imposed if :

- (a) proceedings have been initiated in accordance with Article 10.
- (b) a notice has been given to that effect and interested parties have been given adequate opportunities to submit information and make comments in accordance with Article 11(13),
- (c) a provisional affirmative determination has been made that the imported product benefits from countervailable subsidies and of consequent injury to Jordan's industry, and
- (d) Jordan's interest calls for intervention to prevent such injury.

The provisional duties shall be imposed no earlier than 60 days from the initiation of the proceedings but no later than nine months from the initiation of the proceedings.

The amount of the provisional countervailing duty shall not exceed the total amount of countervailable subsidies as provisionally established but it should be less than this amount, if such lesser duty would be adequate to remove the injury to Jordan's industry.

XLVII. Provisional duties shall be secured by a guarantee and the release of the products concerned for free circulation in Jordan shall be conditional upon the provision of such guarantee.

XLVIII.

Provisional countervailing duties shall have a maximum period of validity of four months.

Article 14

Undertakings

10. Investigations may be terminated without the imposition of provisional or definitive duties upon receipt of satisfactory voluntary undertakings under which:

- (a) the country of origin and/or export agrees to eliminate or limit the subsidy or take other measures concerning its effects; or
- (b) any exporter undertakes to revise its prices or to cease exports as long as such exports benefit from countervailable subsidies, so that the Ministry of Industry and Trade, after consultation, is satisfied that the injurious effect of the subsidies is eliminated. Price increases under such undertakings shall not be higher than necessary to offset the amount of countervailable subsidies, and should be less than the amount of countervailable subsidies if such increases would be adequate to remove the injury to Jordan's industry.

XLIX. Undertakings may be suggested by the Ministry of Industry and Trade, but no country or exporter shall be obliged to enter into such an undertaking. The fact that countries or exporters do not offer such undertakings, or do not accept an invitation to do so, shall in no way prejudice consideration of the case. However, it may be determined that a threat of injury is more likely to be realized if the subsidized imports continue. Undertakings shall not be sought or accepted from countries or exporters unless a provisional affirmative determination of subsidization and injury caused by such subsidization has been made. Save in exceptional circumstances, undertakings may not be offered later than the end of the period during which representations may be made pursuant to Article 30(5).

L. Undertakings offered need not be accepted if their acceptance is considered impractical, such as where the number of actual or potential exporters is too great, or for other reasons, including reasons of general policy. The exporter and/or the country of origin and/or export concerned may be provided with the reasons for which it is proposed to reject the offer of an undertaking and may be given an opportunity to make comments thereon. The reasons for rejection shall be set out in the definitive decision.

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

LII. Where undertakings are, after consultation, accepted, the investigation shall be terminated by the Ministry of Industry and Trade.

LIII. If the undertakings are accepted, the investigation of subsidization and injury shall normally be completed. In such a case, if a negative determination of subsidization or injury is made, the undertaking shall automatically lapse, except in cases where such a determination is due in large part to the existence of an undertaking. In such cases, it may be required that an undertaking be maintained for a

reasonable period. In the event that an affirmative determination of subsidization and injury is made, the undertaking shall continue consistent with its terms and the provisions of this regulation.

LIV. The Ministry of Industry and Trade shall require any country or exporter from whom undertakings have been accepted to provide, periodically, information relevant to the fulfillment of such undertaking, and to permit verification of pertinent data. Non-compliance with such requirements shall be construed as a breach of the undertaking.

LV. Where undertakings are accepted from certain exporters during the course of an investigation, they shall, for the purpose of Articles 19, 20, 21 and 23, be deemed to take effect from the date on which the investigation is concluded for the country of origin and/or export.

LVI. In case of breach or withdrawal of undertakings by any party, a definitive duty shall be imposed in accordance with Article 16, on the basis of the facts established within the context of the investigation which led to the undertaking, provided that such investigation was concluded with a final determination as to subsidization and injury, and that the exporter concerned, or the country of origin and/or export, has, except in the case of withdrawal of the undertaking by the exporter or such country, been given an opportunity to comment.

LVII. A provisional duty may, after consultation, be imposed in accordance with Article 13 on the basis of the best information available, where there is reason to believe that an undertaking is being breached, or in case of breach or withdrawal of an undertaking where the investigation which led to the undertaking has not been concluded.

Article 15

Termination without measures

11. Where the complaint is withdrawn, the proceeding may be terminated unless such termination would not be in Jordan's interest.

LVIII. Where, after consultation, protective measures are unnecessary the investigation or proceeding shall be terminated by the Ministry of Industry and Trade.

LIX. There shall be immediate termination of the proceeding where it is determined that the amount of countervailable subsidies is *de minimis*, in accordance with the provisions of paragraph 5, or where the volume of subsidized imports, actual or potential, or the injury, is negligible.

LX. For a proceeding initiated pursuant to Article 10(12), injury shall normally be regarded as negligible where the market share of the imports is less than the amounts set out in Article 10(10). With regard to investigations concerning imports from developing countries, the volume of subsidized imports shall also be considered negligible if it represents less than 4% of the total imports of the like product in Jordan, unless imports from developing countries whose individual shares of total imports represent less than 4% collectively account for more than 9% of the total imports of the like product in Jordan.

LXI. The amount of the countervailable subsidies shall be considered to be *de minimis* if such amount is less than 1% *ad valorem*, except that

- (a) as regards investigations concerning imports from developing countries the *de minimis* threshold shall be 2% *ad valorem*; and
- (b) for those developing countries Members of the WTO referred to in Annex VII to the Subsidies Agreement as well as for developing countries Members of the WTO which have completely eliminated export subsidies as defined in Article 3(4)(a) of this Decision, the *de minimis* subsidy threshold shall be 3% *ad valorem*; where the application of this provision depends on the elimination of export subsidies, it shall apply from the date on which the elimination of export subsidies is notified to the WTO Committee on Subsidies and Countervailing Measures, and for so long as export subsidies are not granted by the developing country concerned; this provision shall expire eight years from the date of entry into force of the WTO Agreement; provided that it is only the investigation that shall be terminated where the amount of the countervailable subsidies is below the relevant *de minimis* level for individual exporters, who shall remain subject to the proceedings and may be re-investigated in any subsequent review carried out for the country concerned pursuant to Articles 18 and 19.

Article 16

Imposition of definitive duties

12. Where the facts as finally established show the existence of countervailable subsidies and injury caused thereby, and Jordan's interest calls for intervention in accordance with Article 30 a definitive countervailing duty shall be imposed by the Ministry of Industry and Trade, unless the subsidy or subsidies are withdrawn or it has been demonstrated that the subsidies no longer confer any benefit on the exporters

involved. The amount of the countervailing duty shall not exceed the amount of countervailable subsidies from which the exporters have been found to benefit, established pursuant to this regulation, but should be less than the total amount of countervailable subsidies, if such lesser duty would be adequate to remove the injury to Jordan's industry.

LXII. A countervailing duty shall be imposed in the appropriate amounts in each case, on a non-discriminatory basis, on imports of a product from all sources found to benefit from countervailable subsidies and causing injury, except as to imports from those sources from which undertakings under the terms of this regulation have been accepted. The Decision imposing the duty shall specify the duty for each supplier, or, if that is impracticable, the supplying country concerned.

LXIII. When the Ministry of Industry and Trade has limited its examination in accordance with Article 26, any countervailing duty applied to imports from exporters or producers which have made themselves known in accordance with Article 26 but were not included in the examination shall not exceed the weighted average amount of countervailable subsidies established for the parties in the sample. For the purpose of this paragraph, the Ministry of Industry and Trade shall disregard any zero and *de minimis* amounts of countervailable subsidies and amounts of countervailable subsidies established in the circumstances referred to in Article 27. Individual duties shall be applied to imports from any exporter or producer for which an individual amount of subsidization has been calculated as provided for in Article 26.

Article 7

Retroactivity

13. Provisional measures and definitive countervailing duties shall only be applied to products which enter free circulation after the time when the measure taken pursuant to Article 12(1) or Article 15(1), as the case may be, enters into force, subject to the exceptions set out in this regulation.

LXIV. Where a provisional duty has been applied and the facts as finally established show the existence of countervailable subsidies and injury, the Ministry of Industry and Trade shall decide, irrespective of whether a definitive countervailing duty is to be imposed, what proportion of the provisional duty is to be definitively collected. For this purpose, 'injury' shall not include material retardation of the establishment of a Jordanian industry, nor threat of material injury, except where it is found that this would, in the absence of provisional measures, have developed into material injury. In all other cases involving such threat or retardation, any provisional amounts shall be released and definitive duties can only be imposed from the date that a final determination of threat or material retardation is made.

LXV. If the definitive countervailing duty is higher than the provisional duty, the difference shall not be collected. If the definitive duty is lower than the provisional duty, the duty shall be recalculated. Where a final determination is negative, the provisional duty shall not be confirmed.

LXVI. A definitive countervailing duty may be levied on products which were entered for consumption not more than 90 days prior to the date of application of provisional measures but not prior to the initiation of the investigation, provided that the imports have been registered in accordance with Article 24(5), the importers

concerned have been given an opportunity to comment by the Ministry of Industry and Trade, and:

- (a) there exist critical circumstances where for the subsidized product in question injury which is difficult to repair is caused by massive imports in a relatively short period of a product benefiting from countervailable subsidies under the terms of this regulation; and,
- (b) it is deemed necessary, in order to preclude the recurrence of such injury, to assess countervailing duties retroactively on those imports.

LXVII. In cases of breach or withdrawal of undertakings, definitive duties may be levied on goods entered for free circulation not more than 90 days before the application of provisional measures, provided that the imports have been registered in accordance with Article 24(5) and that any such retroactive assessment shall not apply to imports entered before the breach or withdrawal of the undertaking.

Article 18

Duration

A countervailing measure shall remain in force only as long as, and to the extent that, it is necessary to counteract the countervailable subsidies which are causing injury.

Article 19

Expiry reviews

14. A definitive countervailing measure shall expire five years from its imposition or five years from the date of the most recent review which has covered both subsidization and injury, unless it is determined in a review that the expiry would be likely to lead to a continuation or recurrence of subsidization and injury. Such an expiry review shall be initiated on the initiative of the Ministry of Industry and Trade, or upon a request made by or on behalf of Jordan's producers, and the measure shall remain in force pending the outcome of such review.

LXVIII.

An expiry review shall be initiated where the request contains sufficient evidence that the expiry of the measures would be likely to result in a continuation or recurrence of subsidization and injury. Such a likelihood may, for example, be indicated by evidence of continued subsidization and injury or evidence that the removal of injury is partly or solely due to the existence of measures or evidence that the circumstances of the exporters, or market conditions, are such that they would indicate the likelihood of further injurious subsidization.

LXIX. In carrying out investigations under this Article, the exporters, importers, the country of origin and/or export and Jordan's producers shall be provided with the opportunity to amplify, rebut or comment on the matters set out in the review request, and conclusions shall be reached with due account taken of all relevant and duly documented evidence presented in relation to the question as to whether the expiry of

measures would be likely, or unlikely, to lead to the continuation or recurrence of subsidization and injury.

LXX. A notice of impending expiry shall be published in the [Official Journal] of Jordan at an appropriate time in the final year of the period of application of the measures as defined in this Article. Thereafter, Jordan's producers shall, no later than three months before the end of the five-year period, be entitled to lodge a review request in accordance with paragraph 2. A notice announcing the actual expiry of measures under this Article shall also be published.

Article 20

Interim reviews

15. The need for the continued imposition of measures may also be reviewed, where warranted, on the initiative of the Ministry of Industry and Trade or, provided that a reasonable period of time of at least one year has elapsed since the imposition of the definitive measure, upon a request by any exporter, importer or by Jordan's producers or the country of origin and/or export which contains sufficient evidence substantiating the need for such an interim review.

LXXI. An interim review shall be initiated where the request contains sufficient evidence that the continued imposition of the measure is no longer necessary to offset the countervailable subsidy and/or that the injury would be unlikely to continue or recur if the measure were removed or varied, or that the existing measure is not, or is no longer, sufficient to counteract the countervailable subsidy which is causing injury.

LXXII. Where the countervailing duties imposed are less than the amount of countervailable subsidies found, an interim review shall be initiated if Jordan's producers provide sufficient evidence that the duties have led to no movement, or insufficient movement, of resale prices of the imported product in Jordan. If the investigation proves the allegations to be correct, countervailing duties may be increased to achieve the price increase required to remove injury; however, the increased duty level shall not exceed the amount of the countervailable subsidies.

LXXIII.

In carrying out investigations pursuant to this Article, the Ministry of Industry and Trade may, inter alia, consider whether the circumstances with regard to subsidization and injury have changed significantly, or whether existing measures are achieving the intended results in removing the injury previously established under Article 8. In these respects, account shall be taken in the final determination of all relevant and duly documented evidence.

Article 21

Accelerated reviews

Any exporter whose exports are subject to a definitive countervailing duty but who was not individually investigated during the original investigation for reasons other than a refusal to cooperate with the Ministry of Industry and Trade, shall be

entitled, upon request, to an accelerated review in order that the Ministry of Industry and Trade may promptly establish an individual countervailing duty rate for that exporter. Such a review shall be initiated after Jordan's producers have been given an opportunity to comment.

Article 22

Refunds

16. Notwithstanding Article 18, an importer may request reimbursement of duties collected where it is shown that the amount of countervailable subsidies, on the basis of which duties were paid, has been eliminated or reduced to a level which is below the level of the duty in force.

LXXIV.

In requesting a refund of countervailing duties, the importer shall submit an application to the Ministry of Industry and Trade. The application shall be, within six months of the date on which the amount of the definitive duties to be levied was duly determined by the Ministry of Industry and Trade or of the date on which a decision was made definitively to collect the amounts secured by way of provisional duty.

LXXV.

An application for refund shall be considered to be duly supported by evidence only where it contains precise information on the amount of refund of countervailing duties claimed and all customs documentation relating to the calculation and payment of such amount. It shall also include evidence, for a representative period, of the amount of countervailable subsidies for the exporter or producer to which the duty applies. In cases where the importer is not associated with the exporter or producer concerned and such information is not immediately available, or where the exporter or producer is unwilling to release it to the importer, the application shall contain a statement from the exporter or producer that the amount of countervailable subsidies has been reduced or eliminated, as specified in this Article, and that the relevant supporting evidence will be provided to the Ministry of Industry and Trade. Where such evidence is not forthcoming from the exporter or producer within a reasonable period of time the application shall be rejected.

LXXVI.

The Ministry of Industry and Trade shall decide whether and to what extent the application should be granted, or it may decide at any time to initiate an interim review, whereupon the information and findings from such review, carried out in accordance with the provisions applicable for such reviews, shall be used to determine whether and to what extent a refund is justified. Refunds of duties shall normally take place within 12 months, and in no circumstances more than 18 months after the date on which a request for a refund, duly supported by evidence, has been made by an importer of the product subject to the countervailing duty. The payment of any refund authorized should normally be made within 90 days of the above-mentioned decision.

Article 23

General provisions on reviews and refunds

17. The relevant provisions of Articles 10 and 11, excluding those relating to time limits, shall apply to any review carried out pursuant to Articles 18, 19 and 20. Any such review shall be carried out expeditiously and shall normally be concluded within 12 months of the date of initiation of the review.

LXXVII.

Reviews pursuant to Articles 18, 19 and 20 shall be initiated by the Ministry of Industry and Trade. Where warranted by reviews, measures shall be repealed or maintained pursuant to Article 18, or repealed, maintained or amended pursuant to Articles 19 and 20 by the Ministry of Industry and Trade. Where measures are repealed for individual exporters, but not for the country as a whole, such exporters shall remain subject to the proceeding and maybe re-investigated in any subsequent review carried out for that country pursuant to Articles 18 and 19.

LXXVIII.

Where a review of measures pursuant to Article 19 is in progress at the end of the period of application of measures as defined in Article 18, the measures shall also be investigated under the provisions of Article 18.

LXXIX.

In all review or refund investigations carried out pursuant to Articles 18 to 21, the Ministry of Industry and Trade shall, provided that circumstances have not changed, apply the same methodology as in the investigation which led to the duty, with due account being taken of Articles 5, 6, 7 and 26.

Article 24

Circumvention

18. Countervailing duties imposed pursuant to this regulation may be extended to imports from third countries of like products, or parts thereof, when circumvention of the measures in force is taking place. Circumvention shall be defined as a change in the pattern of trade between third countries and Jordan which stems from a practice, process or work for which there is insufficient due cause or economic justification other than the imposition of the duty, and where there is evidence that the remedial effects of the duty are being undermined in terms of the prices and/or quantities of the like products and that the imported like product and/or parts thereof still benefit from the subsidy.

LXXX.

Investigations shall be initiated pursuant to this Article where the request contains sufficient evidence regarding the factors set out in paragraph 1. Initiations shall be made Decision of the Ministry of Industry and Trade which shall also instruct the customs authorities to make imports subject to registration in accordance with Article 24(5) or to request guarantees. Investigations shall be carried out by the Ministry of Industry and Trade, which may be assisted by customs authorities, and shall be concluded within nine months. When the facts as finally ascertained justify the extension of measures, this shall be done by the Ministry of Industry and Trade from the date on which registration was imposed pursuant to Article 24(5) or on which guarantees were requested. The relevant procedural provisions of this

regulation with regard to initiations and the conduct of investigations shall apply pursuant to this Article.

LXXXI.

shall not be subject to registration pursuant to Article 24(5) or measures where they are accompanied by a customs certificate declaring that the importation of the goods does not constitute circumvention. These certificates may be issued to importers, upon written application following authorization by decision of the [Ministry of Industry and Trade and they shall remain valid for the period, and under the conditions, set down therein.

LXXXII.

Nothing in this Article shall preclude the normal application of the provisions in force concerning customs duties.

Article 25

General provisions

19. Provisional or definitive countervailing duties shall be imposed by a Ministry of Industry and Trade Decision and collected in the form, at the rate specified and according to the other criteria laid down in the Decision imposing such duties. Such duties shall also be collected independently of the customs duties, taxes and other charges normally imposed on imports. No product shall be subject to both anti-dumping and countervailing duties for the purpose of dealing with one and the same situation arising from dumping or from export subsidization.

LXXXIII.

Decisions imposing provisional or definitive countervailing duties, and Decisions accepting undertakings or terminating investigations or proceedings, shall be published in the [Official Journal] of Jordan. Such Decisions shall contain in particular and with due regard to the protection of confidential information, the names of the exporters, if possible, or of the countries involved, a description of the product and a summary of the facts and considerations relevant to the subsidy and injury determinations. In each case, a copy of the Decision shall be sent to known interested parties. The provisions of this paragraph shall apply mutatis mutandis to reviews.

LXXXIV.

Special provisions, in particular with regard to the definition of the concept of origin may be adopted pursuant to this regulation.

LXXXV.

In Jordan's interest, measures imposed pursuant to this regulation may be suspended by a decision of the Ministry of Industry and Trade for a period of nine months. The suspension may be extended for a further period, not exceeding one year, if the Ministry of Industry and Trade so decides. Measures may only be suspended where market conditions have temporarily changed to an extent that injury would be unlikely to resume as a result of the suspension, and provided that Jordan's industry has been given an opportunity to comment and these comments have been taken into account. Measures may, at any time and after consultation, be reinstated if the reason for suspension is no longer applicable.

LXXXVI.

The Ministry of Industry and Trade may direct the customs authorities to take the

appropriate steps to register imports, so that measures may subsequently be applied against those imports from the date of such registration. Imports may be made subject to registration following a request from Jordan's industry which contains sufficient evidence to justify such action. Registration shall be introduced by a Ministry of Industry and Trade Decision which shall specify the purpose of the action and, if appropriate, the estimated amount of possible future liability. Imports shall not be made subject to registration for a period longer than nine months.

Article 26

Verification visits

20. The Ministry of Industry and Trade shall, where it considers it appropriate, carry out visits to examine the records of importers, exporters, traders, agents, producers, trade associations and organizations, to verify information provided on subsidization and injury. In the absence of a proper and timely reply a verification visit may not be carried out.

LXXXVII.

The Ministry of Industry and Trade may carry out investigations in third countries as required, provided that it obtains the agreement of the firms concerned, that it notifies the country in question and that the latter does not object to the investigation. As soon as the agreement of the firms concerned has been obtained the Ministry of Industry and Trade should notify the country of origin and/or export of the names and addresses of the firms to be visited and the dates agreed.

LXXXVIII.

The firms concerned shall be advised of the nature of the information to be verified during verification visits and of any further information which needs to be provided during such visits, though this should not preclude requests made during the verification for further details to be provided in the light of information obtained.

Article 27

Sampling

21. In cases where the number of complainants, exporters or importers, types of product or transactions is large, the investigation may be limited to :

- (a) a reasonable number of parties, products or transactions by using samples which are statistically valid on the basis of information available at the time of the selection; or
- (b) the largest representative volume of the production, sales or exports which can reasonably be investigated within the time available.

LXXXIX.

The selection of parties, types of products or transactions made under this Article shall rest with the Ministry of Industry and Trade, though preference shall be given to choosing a sample in consultation with, and with the consent of, the parties concerned, provided that such parties make themselves known and make sufficient

information available, within three weeks of initiation of the investigation, to enable a representative sample to be chosen.

XC. In cases where the examination has been limited in accordance with this Article, an individual amount of countervailable subsidization shall, nevertheless, be calculated for any exporter or producer not initially selected who submits the necessary information within the time limits provided for in this regulation, except where the number of exporters or producers is so large that individual examinations would be unduly burdensome and would prevent completion of the investigation in good time.

XCI. Where it is decided to sample and there is a degree of non-cooperation by some or all of the parties selected which is likely to materially affect the outcome of the investigation, a new sample may be selected. However, if a material degree of non-cooperation persists or there is insufficient time to select a new sample, the relevant provisions of Article 27 shall apply.

Article 28

Non-cooperation

22. In cases in which any interested party refuses access to, or otherwise does not provide, necessary information within the time limits provided in this regulation, or significantly impedes the investigation, provisional or final findings, affirmative or negative, may be made on the basis of the facts available.

Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of the facts available.

Interested parties should be made aware of the consequences of non-cooperation.

XCII. Failure to give a computerized response shall not be deemed to constitute non-cooperation, provided that the interested party shows that presenting the response as requested would result in an unreasonable extra burden or unreasonable additional cost.

XCIII. Where the information submitted by an interested party is not ideal in all respects it should nevertheless not be disregarded, provided that any deficiencies are not such as to cause undue difficulty in arriving at a reasonably accurate finding and that the information is appropriately submitted in good time and is verifiable, and that the party has acted to the best of its ability.

XCIV. If evidence or information is not accepted, the supplying party shall be informed forthwith of the reasons thereof and shall be granted an opportunity to provide further explanations within the time limit specified. If the explanations are considered unsatisfactory, the reasons for rejection of such evidence or information shall be disclosed and given in published findings.

XCV. If determinations, including those regarding the amount of countervailable subsidies, are based on the provisions of paragraph 1, including the information supplied in the complaint, it shall, where practicable and with due regard to the time limits of the investigation, be checked by reference to information from other independent sources which may be available, such as published price lists, official

import statistics and customs returns, or information obtained from other interested parties during the investigation.

XCVI. If an interested party does not cooperate, or cooperates only partially, so that relevant information is thereby withheld, the result may be less favorable to the party than if it had cooperated.

Article 29

Confidentiality

23. Any information which is by nature confidential, (for example, because its disclosure would be of significant competitive advantage to a competitor or would have a significantly adverse effect upon a person supplying the information or upon a person from whom he has acquired the information) or which is provided on a confidential basis by parties to an investigation shall, if good cause is shown, be treated as such by the authorities.

XCVII.

Interested parties providing confidential information shall be required to furnish non-confidential summaries thereof. Those summaries shall be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. In exceptional circumstances, such parties may indicate that such information is not susceptible of summary. In such exceptional circumstances, a statement of the reasons why summarization is not possible must be provided.

XCVIII.

If it is considered that a request for confidentiality is not warranted and if the supplier of the information is either unwilling to make the information available or to authorize its disclosure in generalized or summary form, such information may be disregarded unless it can be satisfactorily demonstrated from appropriate sources that the information is correct. Requests for confidentiality shall not be arbitrarily rejected.

XCIX. This Article shall not preclude the disclosure of general information by Jordan's authorities and in particular of the reasons on which decisions taken pursuant to this regulation are based, nor disclosure of the evidence relied on by Jordan's authorities in so far as is necessary to explain those reasons in court proceedings. Such disclosure must take into account the legitimate interests of the parties concerned that their business or governmental secrets should not be divulged.

C. The Ministry of Industry and Trade or its officials shall not reveal any information received pursuant to this regulation for which confidential treatment has been requested by its supplier, without specific permission from the supplier. Consultations described in Articles 10(8) and 11(9), or any internal documents prepared by the authorities of Jordan shall not be divulged except as specifically provided for in this regulation.

CI. Information received pursuant to this regulation shall be used only for the purpose for which it was requested.

Article 30

Disclosure

24. The complainants, importers and exporters and their representative associations, and the country of origin and/or export, may request disclosure of the details underlying the essential facts and considerations on the basis of which provisional measures have been imposed. Requests for such disclosure shall be made in writing

immediately following the imposition of provisional measures, and the disclosure shall be made in writing as soon as possible thereafter.

CII. The parties mentioned in paragraph 1 may request final disclosure of the essential facts and considerations on the basis of which it is intended to recommend the imposition of definitive measures, or the termination of an investigation or proceedings without the imposition of measures, particular attention being paid to the disclosure of any facts or considerations which are different from those used for any provisional measures.

CIII. Requests for final disclosure shall be addressed to the Ministry of Industry and Trade in writing and be received, in cases where a provisional duty has been applied, not later than one month after publication of the imposition of that duty. Where a provisional duty has not been applied, parties shall be provided with an opportunity to request final disclosure within time limits set by the Ministry of Industry and Trade.

CIV. Final disclosure shall be given in writing. It shall be made, due regard being had to the protection of confidential information, as soon as possible and, normally, not later than one month prior to a definitive decision or the submission by the Ministry of Industry and Trade of any proposal for final action pursuant to Articles 14 and 15. Where the Ministry of Industry and Trade is not in a position to disclose certain facts or considerations at that time, these shall be disclosed as soon as possible thereafter. Disclosure shall not prejudice any subsequent decision which may be taken by the Ministry of Industry and Trade, but where such decision is based on any different facts and considerations, these shall be disclosed as soon as possible.

CV. Representations made after final disclosure is given shall be taken into consideration only if received within a period to be set by the Ministry of Industry and Trade in each case, which shall be at least 10 days, due consideration being given to the urgency of the matter.

Article 31

The interest of Jordan

25. A determination as to whether Jordan's interest calls for intervention shall be based on an appreciation of all the various interests taken as a whole, including the interests of the domestic industry and users and consumers; a determination pursuant to this Article shall only be made where all parties have been given the opportunity to make their views known pursuant to paragraph 2. In such an examination, the need to eliminate the trade distorting effects of injurious subsidization and to restore effective competition shall be given special consideration. Measures, as determined on the basis of subsidization and injury found, may not be applied where the authorities, on the basis of all the information submitted, can clearly conclude that it is not in Jordan's interest to apply such measures.

CVI. In order to provide a sound basis on which the Ministry of Industry and Trade can take account of all views and information in the decision as to whether or not the imposition of measures is in Jordan's interest, the complainants, importers and their representative associations, representative users and representative consumer organizations may, within the time limits specified in the notice of initiation of the

countervailing duty investigation, make themselves known and provide information to the Ministry of Industry and Trade. Such information, or appropriate summaries thereof, shall be made available to the other parties specified in this paragraph, and they shall be entitled to respond to such information.

CVII. The parties which have acted in conformity with paragraph 2 may request a hearing. Such requests shall be granted when they are submitted within the time limits set in paragraph 2, and when they set out the reasons, in terms of Jordan's interest, why the parties should be heard.

CVIII. The parties which have acted in conformity with paragraph 2 may provide comments on the application of any provisional duties imposed. Such comments shall be received within one month of the application of such measures if they are to be taken into account and they, or appropriate summaries thereof, shall be made available to other parties who shall be entitled to respond to such comments.

CIX. The Ministry of Industry and Trade shall examine the information which is properly submitted and the extent to which it is representative.

CX. The parties which have acted in conformity with paragraph 2 may request the facts and considerations on which final decisions are likely to be taken to be made available to them. Such information shall be made available to the extent possible and without prejudice to any subsequent decision taken by the Ministry of Industry and Trade.

CXI. Information shall only be taken into account where it is supported by actual evidence which substantiates its validity.

Article 32

Relationships between countervailing duty measures and multilateral remedies

If an imported product is made subject to any countermeasures imposed following recourse to the dispute settlement procedures of the Subsidies Agreement, and such measures are appropriate to remove the injury caused by the countervailable subsidies, any countervailing duty imposed with regard to that product shall immediately be suspended, or repealed, as appropriate.

Article 33

Final provisions

This regulation shall not preclude the application of:

- (a) any special rules laid down in agreements concluded between Jordan and third countries;
- (b) special measures, provided that such action does not run counter to obligations under the GATT.

Article 34

Entry into force

This regulation shall enter into force on the day following its publication in the [Official Journal] of Jordan and shall apply to proceedings initiated on or after this date.

[ANNEXES I TO III OF THE AGREEMENT ON SUBSIDIES AND COUNTERVAILING MEASURES SHOULD BE ANNEXED TO THIS REGULATION (see Article 2.1(a)(ii)).

ANNEX E
DRAFT AMENDING LAW
The National Production Protection Law No. () for the Year 19998

PART 1: GENERAL PROVISIONS

Article (1) This Law amends the National Production Protection Law No. 4 for the year 1998, and shall be known as (the National Production Protection Law for the Year 1999) No. (), and shall come into effect after thirty days of its publication in the Official Gazette.

Article (2) The provisions of this Law shall apply to those goods imported into the Kingdom, which violate this Law with regard to:

- i. safeguard measures;
- ii. anti-dumping measures; and
- iii. countervailing duty measures.

Article(3) Definitions:
The following words and expressions wherever stated in this Law, shall have the meanings specified hereunder unless otherwise indicated by context:

- a "The Ministry" shall mean The Ministry of Industry and Trade;
- b. "The Minister": shall mean The Minister of Industry and Trade;
- C " The Investigating Authority" shall mean the Industrial Development Division at the Ministry.
- d. "initiation" shall mean the procedural action by which the Ministry formally commences an investigation as provided in regulations issued pursuant to this Law;

- iii together they directly or indirectly control a third person, 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.

d. "interested parties" shall mean

- the exporter(s) and foreign producer(s) of the investigated product;
- ii. the importer(s) of the investigated product;
- iii trade or business association(s) of a majority of the members of which are producers, exporters or importers of the investigated product;
- iv the government(s) of the exporting country or countries;
- v. the producer(s) of the like or directly competitive products in Jordan;
- vi trade and business association(s) a majority of the members of which are producers of the domestic like or directly competitive products in Jordan;
- vii labor unions or other organizations representing the interests of workers in the domestic industry;
- viii consumer associations;
- ix. industrial users of the investigated products; and any other natural or legal person which The Ministry determines to have a sufficient interest in the outcome of the investigation.

"like product" shall mean a product which is identical, i.e., alike in all respects to the product under consideration 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 consideration;

£ "investigated product" shall mean the imported product subjected to an investigation conducted according to the provisions of this law the Implementing Regulations, as described in the notice of initiation;

g. the term "levy" shall mean the definitive or final assessment or collection of a duty or tax.

Article (4): An investigation, according to the provisions of this Law and the implementing Regulations, shall be initiated upon a written application (petition) by or on behalf of the domestic industry.

2. An application (a petition) shall be considered to have been made by or on behalf of the domestic industry if..
 - a. it is supported by those domestic producers whose collective output constitutes more than 50 per cent of the total production of the like product produced by that portion of the domestic industry expressing either support for or opposition to the petition; and
 - b. domestic producers expressly supporting the petition do not account for less than 25 per cent of total production of the like product produced by the domestic industry.

Article (5): The Minister shall decide, on the basis of a studied recommendation by the competent authority in the Ministry, whether to grant the petition preliminary approval or to deny it.

2. The Ministry shall notify the petitioners of its decision within 45 days from the date of the receipt of the petition.
3. If the Ministry determines to initiate an investigation, then a notice of initiation of investigation shall be published in the Official Gazette. If, however, the Ministry determines to reject or deny the petition, then a notice denying or rejecting the petition shall be published in the Official Gazette.

Article (6) After completing the investigation as provided for in this Law and the Implementing Regulations, and drawing conclusions therefrom, the investigating authority in the Ministry shall make a recommendation to the Minister to grant or deny the application of the measure requested in the petition, The recommendation must be justified and based upon objective evidence.

2. If the Minister decides to grant the application of the measure requested in the petition, a recommendation shall be submitted to the Tariff Council, specifying therein the applicable measures and the implementation period and procedures which local producers must observe.
3. If the Minister denies the petition -after reviewing the recommendation- the Ministry shall notify the applicant of the denial decision and the reasons for the denial.

Article (7) a The Cabinet may decide, after reviewing the Tariff Council's recommendation, either to deny the petition, or to approve the application of the recommended measure in accordance with the provisions of this Law and the Implementing Regulations.
The Ministry shall notify the applicant of the Cabinet's decision and publicize it in two daily local newspapers and in

the Official Gazette

- b. Petitioners whose petitions have been denied by the Minister or the Cabinet may not submit another petition based on the same circumstances and causes provided in their initial petition, before (180) days from the date of publication in the Official Gazette of the denial decision.

PART 19: SAFEGUARD MEASURES

Article (8), The Ministry may apply a safeguard measure on a product imported into the territory of Jordan only if it has determined, pursuant to an investigation conducted in accordance with the provisions of this Law and the implementing regulations, that the investigated product is being imported in such increased quantities, absolute or relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to the domestic industry producing like or directly competitive products, and that the application of such measure is in the public interest.

Article (9) For the purposes of Article 8

- a. "serious injury" shall mean a significant overall impairment in the position of a domestic industry.
- b. "threat of serious injury" shall mean serious injury that is clearly imminent.

PART IU: ANTI-DUMPING AND COUNTERVAILING MEASURES

Article (10): The Ministry may apply an anti-dumping duty on a product imported into the territory of Jordan only if it has determined, pursuant to an investigation conducted in accordance with the provisions of this Law and the Implementing Regulations, that the investigated product is being imported into the Kingdom at less than the normal value of the product in the country of production, and such imported product causes or threatens material injury to an established industry, or materially retards the establishment of a domestic industry.

Article The Ministry may apply countervailing duty on a product imported into the territory of Jordan only if it has determined, pursuant to an investigation conducted in accordance with the provisions of this Law and regulations issued pursuant to this Law, that the investigated product is being imported into the Kingdom at a subsidized price, or benefiting from a subsidy bestowed on the products in the country of production, and such subsidized imported product causes or threatens material injury to an established industry, or materially retards the establishment of a domestic industry.

Article(12): For the purposes of Articles 10 and 11, the term "injury" shall, unless otherwise specified, mean:

- i. material injury to an industry of Jordan; or
- ii. threat of material injury to a domestic industry; or
- iii. material retardation of the establishment of such an industry.

The term "Injury" shall be interpreted in accordance with the provisions of the Implementing Regulations on Anti-Dumping and Countervailing Measures.

PART IV: FINAL PROVISIONS

Article (13): Neither the Ministry nor any official authority, nor their employees shall disclose any confidential information obtained in the course of carrying out its duties in administering this Law and the Implementing Regulations.

Article (14): Judicial and Administrative Review

Article (15): The Cabinet shall issue detailed Regulations for the implementation of Parts 11 and 111 of this Law.

Article (16): The Minister shall issue instructions necessary for the implementation of this Law and the Implementing Regulations.

Article (17): This Law repeals the provisions of any Law or Regulation contradictory to the Provisions of this Law and the Implementing Regulations.

Article (18): The Prime Minister and the Ministers are in charge of implementing this Law.

"domestic industry" shall mean the domestic producers as a whole of the like products or those of them whose collective output of the products constitutes a major proportion of the total domestic production of those products, except that when producers are related to the exporters or importers or are themselves importers of the allegedly dumped product, the term "domestic industry" shall refer to the rest of the producers.

For the purposes of this Law, producers shall be deemed to be related to exporters or importers only if:

- i. one of them directly or indirectly controls the other; or
- ii. both of them are directly or indirectly controlled by a third person; or

Annex F

DRAFT REGULATIONS FOR SAFEGUARD MEASURES

May 1999

**Issued Pursuant to Article 15 of The National Production Protection Law (No. 4)
Dated 1 October 1998**

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TITLE I: GENERAL PROVISIONS

Article 1

Scope

1. This regulation shall be named "Regulation for Implementation of The Law on National Production Protection of Jordan," issued pursuant to Article 15 of the Law, and shall be enforced from the date of its publication in the Official Gazette
2. The Ministry of Industry and Trade may apply a safeguard measure on a product imported into the territory of Jordan only if it has determined, pursuant to an investigation conducted in accordance with the provisions of the Law on National Production Protection of Jordan and this regulation, that the investigated product is being imported in such increased quantities, absolute or relative domestic production, and under such conditions as to cause or threaten to cause serious injury to the domestic industry producing like or directly competitive products, and that the application of such a measure is in the public interest.

Article 2

Definitions

The following words and phrases shall have meanings assigned thereto hereunder wherever mentioned herein, unless the context indicates otherwise:

"serious injury" shall mean a significant overall impairment in the position of a domestic industry;

"threat of serious injury" shall mean serious injury that is clearly imminent;

"domestic industry" shall mean the producers as a whole of products which are like or directly competitive with the investigated product, operating within the territory of Jordan; or those producers operating within that territory whose collective output of like or directly competitive products constitutes a major proportion of the total domestic production of those products;

"investigated product" shall mean the imported product subject to a safeguard investigation under this law as described in the notice of initiation;

"interested parties" shall mean

- (i) the exporter(s) and foreign producer(s) of the investigated product;
- (ii) the importer(s) of the investigated product;
- (iii) trade of business association(s) a majority of the members of which are producers, exporters or importers of the investigated product;
- (iv) the government(s) of the exporting country or countries;
- (v) the producer(s) of the domestic like or directly competitive products in Jordan;

- (vi) trade and business association(s) a majority of the members of which are producers of the domestic like or directly competitive products in Jordan;
- (vii) labor unions or other organizations representing the interests of workers in the domestic industry;
- (viii) consumer associations;
- (ix) industrial users of the investigated product;
- (x) any other natural or legal person which Ministry of Industry and Trade determines to have a sufficient interest in the outcome of the investigation.

«Participating interested parties» shall mean those interested parties that have indicated their interest in participating in an investigation, in accordance with the provisions of Article 11 of this regulation.

«Agreement» shall mean the Agreement on Safeguards of the World Trade Organization.

«Committee» shall mean the Committee on Safeguards of the World Trade Organization.

«WTO» shall mean the World Trade Organization.

«Member» shall mean Member of the World Trade Organization.

«Country» shall include all WTO Members and any other country or autonomous customs territory.

TITLE II: MINISTRY OF INDUSTRY AND TRADE

Article 3

Ministry of Industry and Trade

1. Decisions relating to the application, suspension and withdrawal of safeguard measures and those relating to the modification or extension corresponding periods of application shall be within the exclusive competence of the Ministry of Industry and Trade. The conduct of investigations relating to serious injury or threat thereof, and the reasons for it, also shall be within the exclusive competence of the Ministry of Industry and Trade.

Article 4

Obligations of the Ministry of Industry and Trade

1. The Ministry of Industry and Trade shall be bound by the provisions of this regulation in performing the functions assigned to it under the Law of National Production Protection and shall perform those functions in an impartial and transparent manner.

2. With respect to any proceeding under this regulation, the Ministry of Industry and Trade shall not disclose any information which is entitled to confidential treatment under this regulation and the Law on National Production Protection.. Any person acting under the authority of the Ministry of Industry and Trade who discloses such confidential information shall be subject to the disciplinary and criminal penalties applicable.

TITLE III: SERIOUS INJURY OR TUREAT OF SERIOUS INJURY AND CAUSAL LINK

Article 5

Serious Injury and Causation

1. A determination of whether increased imports of the investigated product have caused or are threatening to cause serious injury to a domestic industry shall be based upon an evaluation of all relevant factors of an objective and quantifiable nature having a bearing on the situation of that industry, in particular:

- (i) the rate and amount of the increase in imports of the investigated product, in absolute terms and relative to domestic production of like or directly competitive products;
- (ii) the share of the domestic market taken by increased imports of the investigated product;

the prices of the investigated product, especially for the purposes of determining whether prices lower than those of the domestic like or directly competitive products have been recorded;

the impact of increased imports of the investigated product on the domestic industry, as evidenced by relevant indicators including: production, capacity utilization, inventories, sales, market share, prices, i.e. domestic price declines or failure of domestic prices to increase as they otherwise would have in the absence of increased imports, productivity, profits and losses, return on investments, cash flow, and employment;

- (v) factors other than increased imports of the investigated product which at the same time are causing or threatening to cause serious injury to the domestic industry.

2. When factors other than increased imports of the investigated product are at the same time causing or threatening to cause injury to the domestic industry, such injury shall not be attributed to the increased imports.

Article 6

Threat of Serious Injury and Causation

1. A determination of a threat of serious injury caused by increased imports shall be based on facts and not merely on allegation, conjecture or remote possibility.
2. In considering whether increased imports threaten to cause serious injury, the Ministry of Industry and Trade shall evaluate, in addition to the factors cited in Article 5.1, the following:
 - (i) the actual and potential export capacity of the country or countries of production or origin;
 - (ii) any build-up of inventories in Jordan and in the countries of exportation;
 - (iii) the probability that exports of the investigated product will enter the Jordan market in increasing quantities;
 - (iv) any other factor deemed relevant by the Ministry of Industry and Trade.

TITLE IV: INVESTIGATION

Chapter I: Procedures

Article 7

Initiation

An investigation to determine whether increased imports of the investigated product have caused or threaten to cause serious injury to a domestic industry may be initiated (a) upon a written request addressed to the Ministry of Industry and Trade by or on behalf of a domestic industry; or (b) on the initiative of the Ministry of Industry and Trade.

Article 8

Requirements for a Written Request

A written request for the application of a safeguard measure shall include such information as is reasonably available to the applicant on the following:

1. A complete description of the imported product, including its technical characteristics and uses, and an identification of its tariff classification and the duties applicable;
2. A complete description of the domestic like or directly competitive products, including their technical characteristics and uses;

3. The names and addresses of the enterprises or entities represented in the application («the requesting enterprises»), and of all other known producers of the domestic like or directly competitive products;
4. The percentage of domestic production of the like or directly competitive products represented by the requesting enterprises;
5. Information on the volume and value of the imported product for each of the three calendar years preceding the request, and any more recent partial-year data by country of origin;
6. A description of the increase in imports alleged to exist, in particular, whether such increase is absolute, relative to domestic production, or both;
7. Information relevant to the existence of serious injury or threat thereof to the domestic industry, for each of the three calendar years preceding the request, and any more recent partial-year data, including but not limited to:
 - (a) With respect to serious injury:
 - (i) volume and value of domestic production;
 - (ii) utilization of production capacity;
 - (iii) changes in inventory levels;
 - (iv) market share;
 - (v) changes in sales levels;
 - (vi) level of employment and wages in the domestic industry;
 - (vii) changes in price levels;
 - (viii) productivity;
 - (ix) profit and loss;
 - (x) return on investment;
 - (xi) cash flow;
 - (xii) any other indicators considered relevant.
 - (b) With respect to threat of serious injury, if alleged, also the following:
 - (i) export capacity in the exporting countries;
 - (ii) inventories in Jordan and in the exporting countries;
 - (iii) information regarding the probability that imports will increase, including, e.g., trade restrictions on exports to third country markets.
8. An explanation, in light of the data provided in the request and the requirements of this law of the reasons why it is believed that serious injury or threat thereof exists and is caused by increased imports.
9. A statement giving specific reasons for seeking application of a safeguard measure, for example, to facilitate the orderly transfer of resources to

more productive uses, to improve competitiveness or to adapt to new conditions of competition, together with the type and level of the measure considered necessary to ensure the achievement of the objectives pursued;

10. A plan for adjusting the domestic industry to competition from imports, in accordance with the objectives described in the previous paragraph;

If a provisional measure is sought, information regarding critical circumstances where delay in taking action would cause damage to the industry which it would be difficult to repair, and a statement indicating the level of tariff increase requested as a provisional measure.

Article 9

Withdrawal of the Request before Initiation

Any request under Article 8 may be withdrawn prior to initiation, in which case it shall be considered not to have been made.

Article 10

Initiation Decision

1. The Ministry of Industry and Trade may initiate an investigation, whether at the request of a domestic industry or on its own initiative, only when it has determined that there is sufficient evidence of serious injury threat thereof caused by increased imports. Where a request has been received, the Ministry of Industry and Trade may seek such additional information as it deems necessary, including from the requesting enterprises, before deciding whether to initiate an investigation.

2. Where the Ministry of Industry and Trade decides not to initiate an investigation in response to a request, it shall notify the requesting enterprises of the reasons for not initiating the investigation.

3. Where a request has been received, the Ministry of Industry and Trade shall normally decide whether or not to initiate a safeguard investigation within 15 days of the date of receipt of the request. When the request involves complex issues, or if the Ministry of Industry and Trade has sought additional information as provided for in paragraph 1, above, this time period may be extended to 30 days.

Article 11

Public Notice and Notification Regarding Initiation

1. Immediately after taking a decision regarding initiation, whether affirmative or negative, the Ministry of Industry and Trade shall provide direct written notice of that decision to the known exporting countries, and shall notify interested parties through the

publication of a Notice Regarding Initiation of a Safeguard Investigation in the Official Gazette. The date of initiation of an investigation shall be the date of such publication.

2. Interested parties desiring to participate in the investigation shall have a period of 30 days from the date of initiation to indicate to the Ministry of Industry and Trade in writing their interest in participating in the investigation. The Ministry of Industry and Trade may allow interested parties to indicate their interest in participating in the investigation after this date, upon cause shown.

3. The decision to initiate an investigation shall be notified to the Committee. Such notification shall be made immediately after the initiation of the investigation, and shall conform to the requirements established by the Committee.

Article 12

Contents of the Notice Regarding Initiation of a Safeguard Investigation

1. The Notice Regarding Initiation of a Safeguard Investigation shall include the following information:

- (a) A complete description of the investigated product, including its technical characteristics and uses, and an identification of its tariff classification and the duties applicable;
- (b) A complete description of the domestic like or directly competitive products, including their technical characteristics and uses;
- (c) The names of the requesting enterprises, if any, and of all other known producers of the domestic like or directly competitive products;
- (d) The country or countries of origin of the investigated product;
- (e) A summary of the information on which the allegations of increased imports and serious injury or threat thereof caused by increased imports are based;
- (f) Contact information: the name, address and telephone number of contact person at the Ministry of Industry and Trade;
- (g) Statement that the date of initiation is the date of publication of the Notice Regarding Initiation of a Safeguard Investigation;
- (h) Whether or not application of a provisional measure will be considered;
- (i) The proposed schedule for the investigation, including:
 - 1) the date by which interested parties desiring to participate in the investigation must so inform the Ministry of Industry and Trade in writing;

- (2) schedule for and deadlines pertaining to the preliminary phase of the investigation (e.g., the deadline for any written arguments or other submissions);
- (3) the date by which a hearing, if desired, must be requested
- (4) the proposed dates for the determination regarding application of a provisional safeguard measure, if relevant, for the determination regarding serious injury or threat thereof and causation, and for any decision regarding the application of a safeguard measure.

2. Where the Ministry of Industry and Trade has decided not to initiate an investigation, the Notice Regarding Initiation of a Safeguard Investigation should contain the following information:

- (a) The identity of the requesting enterprises, and the domestic products with respect to which initiation was requested;
- (b) An identification of the imported product;
- (e) The reasons for not initiating an investigation.

Article 13

Timetable for the Investigation

1. The Ministry of Industry and Trade shall complete the investigation within six months from the date of initiation of the investigation.
2. The Ministry of Industry and Trade may extend this period once only, for a further two months.
3. Where the application of a provisional measure will be considered, the Ministry of Industry and Trade shall reach a determination in accordance with the provisions of Article 20 within 15 days from the date of initiation of the investigation.
4. During the investigation, the Ministry of Industry and Trade shall establish, and shall make known immediately to all participating interested parties, such deadlines as are necessary for the conduct of the investigation.
5. The deadlines established by the Ministry of Industry and Trade shall provide sufficient opportunities for all participating interested parties to make their views known on the matters being considered in the investigation. To this end, the Ministry of Industry and Trade shall allow sufficient time for the submission of responses to questionnaires and other requests by the Ministry of Industry and Trade for information, for the preparation and submission of other evidence deemed relevant by participating interested parties, and for the submission of participating interested parties' views, including with respect to the views and presentations of other participating interested parties and with

respect to whether or not the application of a safeguard measure would be in the public interest.

Chapter II: Conduct of the Investigation

Article 14

Investigative Powers

1. The Ministry of Industry and Trade may request directly from the participating interested parties, customs agents, inspection companies, forwarders, and other enterprises and entities of the public and private sectors such data and information as it considers relevant to the performance of its task. The recipients of such requests shall provide the requested information within the time-limits allowed.

2. The Ministry of Industry and Trade may conduct on-the-spot investigations to verify or obtain further details concerning the information provided. Where such investigations are conducted, the Ministry of Industry and Trade shall prepare a report describing the findings of the verification. This verification report, with the exception of any confidential information, shall be placed promptly in the public file

Article 15

Treatment of Confidential Information

1. Any information which is by nature confidential or which is provided on a confidential basis shall, upon cause shown, be treated as such by the Ministry of Industry and Trade. Such information shall not be disclosed without permission of the submitter. Persons providing confidential information shall furnish non-confidential summaries thereof or, if such persons indicate that such information cannot be summarized, the reasons why a summary cannot be provided.

2. If the Ministry of Industry and Trade finds that a request for confidential treatment is not warranted, and if the provider of the information is unwilling to make the information public, the Ministry of Industry and Trade shall disregard such information, and shall return the information concerned to the person submitting it.

Article 16

Written Arguments

1. All participating interested parties shall have the opportunity, in accordance with the provisions of this Article, to present evidence and arguments in writing, including responses to the written and oral presentations of other participating interested parties and views as to whether or not application of a safeguard measure would be in the public interest.

2. In an investigation in which application of a provisional safeguard measure will be considered, any participating interested party may submit written arguments concerning any matter it considers relevant to the preliminary phase of the investigation no later than 15 days before the date proposed for the determination regarding the application of a provisional safeguard measure.

3. In an investigation in which no hearing is requested, any participating interested party may submit written arguments concerning any matter it considers relevant to the investigation no later than 45 days before the date proposed for the determination regarding serious injury or threat thereof and causation. Participating interested parties shall have a further 10 days after the deadline for initial written submissions to submit any written responses to the written submissions of other participating interested parties.

4. In an investigation in which a hearing is held, no later than 10 days before the scheduled date of the hearing, any participating interested party may submit written arguments and information concerning any matter it considers relevant to the investigation. Following the hearing, interested parties who participated in the hearing may, within 10 days, submit further written arguments in response to arguments and information presented at the hearing.

Article 17

Hearings

1. The Ministry of Industry and Trade shall, upon request of a participating interested party made no later than 15 days after publication of the determination regarding the application of a provisional measure, or if the application of a provisional measure will not be considered, no later than 45 days after initiation, schedule a hearing at which all participating interested parties may present information and arguments orally. Any hearing shall be held no less than 60 days prior to the date proposed for the determination regarding serious injury or threat thereof and causation.

2. There shall be no obligation on any participating interested party to appear at a hearing, and failure to do so shall not be prejudicial to that participating interested party's case. The Ministry of Industry and Trade shall, to the maximum extent possible, organize hearings so as to take into account the convenience of the participating interested parties.

3. Participating interested parties intending to appear at a hearing shall notify the Ministry of Industry and Trade at least 7 days before the date of the hearing of the names of their representatives and witnesses who will appear at the hearing.

4. Hearings shall be presided over by the Ministry of Industry and Trade who shall ensure that confidentiality is preserved and who shall organize hearings in a manner that ensures that all participating interested parties have an adequate opportunity to present their views.

5. The Ministry of Industry and Trade shall maintain a record of the hearing, which shall be promptly in the public file, with the exception of any confidential information.

Article 18

Public File and Access Thereto

1. The Ministry of Industry and Trade shall establish and maintain a public file relating to each investigation or other proceeding conducted under this law. Subject to the provisions of Article 15 for the protection of confidential information, the Ministry of Industry and Trade shall promptly place in the public file:

- (a) all written determinations and public notices relating to the investigation;
- (b) all materials, including questionnaires, responses to questionnaires, and written communications, issued by or submitted to the Ministry of Industry and Trade);
- (c) all other information developed or obtained by the Ministry of Industry and Trade including any verification report(s) prepared pursuant to Article 14; and
- (d) the record of any hearing conducted pursuant to Article 17; and
- (e) any other documents the Ministry of Industry and Trade deems appropriate for public disclosure.

2. The public file shall be available to the general public for review and copying at the offices of the Ministry of Industry and Trade throughout the course of the investigation.

Article 19

Reliance on Information Available

If, at any time during the investigation, any participating interested party:

- (a) refuses access to, or otherwise does not provide, necessary information within the period of time prescribed by the Ministry of Industry and Trade; or
- (b) otherwise significantly impedes the investigation;

The Ministry of Industry and Trade may make determinations on the basis of the information available.

2. The Ministry of Industry and Trade shall take due account of any difficulties experienced by participating interested parties, including small companies, in supplying information requested. In that context, the Ministry of Industry and Trade shall provide any assistance practicable and/or may extend the time period prescribed for the submission of any information.

TITLE V: APPLICATION OF SAFEGUARD MEASURES

Chapter I: Provisional Safeguard Measures

Article 20

Application of a Provisional Safeguard Measure

1. A provisional safeguard measure may be applied only if the Ministry of Industry and Trade determines:
 - (a) that there are critical circumstances, i.e., that delay in taking action would cause damage which would be difficult to repair; and
 - (b) that there is clear evidence that increased imports of the investigated product have caused or are threatening to cause serious injury.
2. A provisional safeguard measure shall take the form only of a refundable increase in customs duties.

Article 21

Notice Regarding the Application of a Provisional Safeguard Measure

1. Immediately upon taking a decision regarding the application of a provisional safeguard measure, the Ministry of Industry and Trade shall publish a Notice Regarding the Application of a Provisional Safeguard Measure in the Official Gazette.
2. If the decision is to apply a provisional safeguard measure, the Notice Regarding the Application of a Provisional Safeguard Measure shall include the following information:
 - (a) A complete description of the investigated product, including its technical characteristics and uses, and an identification of its tariff classification and the duties applicable;
 - (b) A complete description of the domestic like or directly competitive products, including their technical characteristics and uses;
 - (c) The names of all known producers of the domestic like or directly competitive products;
 - (d) The country or countries of origin of the investigated product;
 - (e) The basis for the determination of critical circumstances, where delay would cause damage that would be difficult to repair; and the basis for the determination of the existence of clear evidence that increased imports of the investigated product have caused or are threatening to cause serious injury;
 - (f) The amount of tariff increase proposed as the provisional safeguard measure;
 - (g) The intended duration of the provisional safeguard measure

3. If the Ministry of Industry and Trade decides not to apply a provisional safeguard measure, the Notice Regarding the Application of a Provisional Safeguard Measure shall include the following information:

- (a) A complete description of the investigated product, including its technical characteristics and uses, and an identification of its tariff classification and the duties applicable;
- (b) An identification of the domestic like or directly competitive products;
- (c) An explanation of the reasons for the decision not to apply a provisional safeguard measure;
- (d) A statement indicating whether the investigation will be terminated at that point, or continued through the final phase.

Article 22

Notification and Consultations

After a decision has been taken to apply a provisional safeguard measure, and before the measure takes effect, the Government of Jordan shall immediately notify the Committee in conformity with the requirements established by the Committee. As soon as the measure has been applied, the consultations referred to in Article 12.4 of the Agreement shall be initiated.

Article 23

Duration of a Provisional Safeguard Measure

A provisional safeguard measure shall be applied for no more than 200 days and may be suspended before its date of expiration by decision of the Ministry of Industry and Trade.

Article 24

Payment and Refund of a Provisional Safeguard Measure

1. The amount of a provisional safeguard measure shall be collected and paid in refundable form, or guaranteed by the furnishing of a bond or deposit in favor of the Customs Authority.
2. Any amount collected as a provisional safeguard measure shall be promptly refunded, and any bond or deposit shall be promptly released, if the subsequent investigation does not result in a determination that increased imports have caused or threaten to cause serious injury to the domestic industry.

3. The organ responsible for the assessment and collection of provisional safeguard measures shall be the Customs Authority.

Chapter II: Conclusion of Investigation Regarding Serious Injury or Threat Thereof and the Reasons for It

Article 25

Determination Regarding Serious Injury or Threat Thereof and Causation

The Ministry of Industry and Trade shall determine, in conformity with the provisions of Articles 5 and 6, on the basis of objective evidence obtained in the investigation, whether increased imports of the investigated product have caused or threaten to cause serious injury to the domestic industry. This determination shall be published in a report containing a detailed analysis of the information obtained in the investigation and setting forth the Ministry of Industry and Trade's findings and reasoned conclusions on all pertinent issues of fact and law. The analysis shall include a demonstration of the relevance of the factors examined by the Ministry of Industry and Trade.

Article 26

Public Notice and Notification of Determination Regarding Serious Injury or Threat Thereof and Causation

1. Immediately upon reaching its determination whether negative or affirmative, as to serious injury and threat thereof and causation, the Ministry of Industry and Trade shall publish a Notice of Determination Regarding Serious Injury or Threat Thereof and Causation in the Official Gazette. This notice shall include:

- (a) A complete description of the investigated product, including its technical characteristics and uses, and an identification of its tariff classification and the duties applicable.
- (b) A complete description of the domestic like or directly competitive products, including their technical characteristics and uses.
- (c) The names of all known producers of the domestic like or directly competitive products.
- (d) The country or countries of origin of the investigated product.
- (e) A summary of the information obtained in the investigation, the factors considered and the relevance thereof, and the findings and conclusions reached on the issues of fact and law considered, and the reasons therefor.

2. The Government of Jordan shall immediately notify the Committee if it is determined that increased imports have caused or threaten to cause serious injury to the domestic industry. And such notification shall conform to the requirements established by the Committee.

Chapter III: Definitive Safeguard Measures

Article 27

General Principle

Where the Ministry of Industry and Trade determines:

- (a) that increased imports have caused or threaten to cause serious injury to the domestic industry; and
- (b) that application of a definitive safeguard measure is in the public interest the Ministry of Industry and Trade may apply such a measure.

2. The duration and level of any such measure shall be no more than is necessary to prevent or remedy serious injury and to facilitate adjustment.

3. In deciding whether to apply a definitive safeguard measure, the Ministry of Industry and Trade shall take into account the fact that, if adequate trade compensation cannot be agreed with the Members whose exporting interests would be affected by the measure, those Members shall be free, in accordance with the Agreement, to suspend substantially equivalent concessions under GATT 1994, provided that such suspension is not disapproved by the Council for Trade in Goods of the WTO. The Ministry of Industry and Trade also shall take into account that the right of suspension of equivalent concessions shall not be exercised for the first three years that a safeguard measure is in effect including the period of application of any provisional safeguard measure provided that the measure has been taken as a result of an absolute increase in imports.

Article 28

Notice Regarding Application of a Definitive Safeguard Measure

1. Immediately upon taking a decision regarding the application of a definitive safeguard measure, the Ministry of Industry and Trade shall publish a Notice Regarding Application of a Definitive Safeguard Measure in the Official Gazette.

2. If the decision is to apply a definitive safeguard measure, the Notice shall contain the following information:

- (a) A complete description of the investigated product, including its technical characteristics and uses, and an identification of its tariff classification and the duties applicable;

- (b) A complete description of the domestic like or directly competitive products, including their technical characteristics and uses;
 - (c) The names of all known producers of the domestic like or directly competitive products;
 - (d) The country or countries of origin of the investigated product;
 - (e) A summary of the affirmative injury determination, including the factors considered and the relevance thereof, as well as of the findings and conclusions, and the reasons therefor, on the issues of fact and law considered or a cross-reference to the Notice of Determination Regarding Serious Injury or Threat Thereof and Causation;
 - (f) The reasons for which the Ministry of Industry and Trade has concluded that application of a definitive safeguard measure is in the public interest.
 - (g) Details concerning the domestic industry's adjustment plan;
 - (h) The form level and duration of the proposed definitive safeguard measure, and an explanation thereof in light of the requirements of Article 27.2 and the domestic industry's adjustment plan;
 - (i) The proposed date of application of the definitive safeguard measure;
 - (j) If a quantitative restriction is proposed, the allocation of the quota among the supplier countries, and an explanation and the relevant information, in light of the provisions of Article 32, regarding the basis on which this allocation has been made;
 - (k) If the proposed duration of the measure (including the period of application of any provisional safeguard measure) is more than one year, a timetable for the progressive liberalization of the measure;
 - (l) An identification of the developing countries exempted from the measure
3. If the decision is not to apply a definitive safeguard measure, the Notice shall set forth the factual and legal basis for the decision.

Article 29

Notification and Consultation

1. Immediately upon a decision to apply a definitive safeguard measure, but before such measure takes effect, the Government of Jordan shall notify the Committee regarding the evidence of serious injury or threat thereof caused by increased imports, the precise description of the investigated product, the form, level and duration of the

proposed measure, the proposed date of application of the measure, and, if relevant, the proposed timetable for its progressive liberalization. Such notification shall conform to the requirements established by the Committee.

2. Before a definitive safeguard measure is applied, the Government of Jordan shall provide adequate opportunity for consultations with those Members having a substantial interest as exporters of the investigated product, with a view to *inter alia* reviewing the information notified to the Committee regarding the finding of serious injury or threat thereof caused by increased imports and regarding the proposed measure, exchanging views about the measure, and reaching an understanding on ways to achieve the objective set forth in paragraph 3 below.

3. In applying a definitive safeguard measure, the Government of Jordan shall endeavor to maintain a substantially equivalent level of concessions and other obligations to that existing under GATT 1994 between Jordan and the exporting Members which would be affected by such measures.

4. For the purposes of maintaining a substantially equivalent level of concessions and other obligations as referred to in paragraph 3 above, agreement may be reached with affected Members, through the consultations referred to in paragraph 2 above, on any adequate means of trade compensation for the adverse effects of the definitive safeguard measure on the trade of those Members.

5. The Government of Jordan shall notify the Council for Trade in Goods of the WTO immediately, through the Committee, of the results of the consultations, including any compensation granted.

Article 30

Form and Application of a Definitive Safeguard Measure

1. A definitive safeguard measure normally shall be applied in the form of either a tariff increase or a quota on imports.

2. Subject to the provisions of Article 31, any definitive safeguard measure shall be applied to all imports of the investigated product, irrespective of source, entered on or after the date on which the measure takes effect.

3. The organ responsible for the collection of a definitive safeguard measure in the form of a tariff increase shall be the Customs Authority. The organ responsible for the administration of a definitive safeguard measure in the form of a quantitative restriction shall be the Ministry of Industry and Trade.

Article 31

Non-application of a Definitive Safeguard Measure to Certain Developing Countries

1. Notwithstanding other provisions of this law, a definitive safeguard measure shall not be applied to imports of the investigated product originating in a developing country

Member as long as those imports account for no more than three per cent of Jordan total imports of the investigated product.

2. Notwithstanding paragraph 1 above, if imports from developing country Members which individually account for less than three per cent of Jordan's imports of the investigated product collectively account for more than nine per cent of Jordan's imports of the investigated product, a definitive safeguard measure may be applied to such imports from those developing country Members.

3. The Government of Jordan shall notify the non-application of a definitive safeguard measure to imports originating in a developing country Member to the WTO Committee on Safeguards, in conformity with the requirements established by the Committee.

Article 32

Quotas as Definitive Safeguard Measures

1. A definitive safeguard measure in the form of a quota on imports of the investigated product shall not reduce the quantity of those imports below the average level registered in the most recent three representative years for which statistics are available.

2. Notwithstanding paragraph 1 above, the Ministry of Industry and Trade may, upon clear justification that a different level is necessary to prevent or remedy serious injury or threat of serious injury, apply a quota which reduces the quantity of imports of the investigated product below the average level registered in the most recent three representative years for which statistics are available.

3. If more than one country exports the investigated product to Jordan, any quota on imports shall be allocated among supplying countries. The Government of Jordan shall attempt to reach agreement with those Members having a substantial interest in supplying the investigated product as to the allocation of shares of the total quota amount.

4. Where the Ministry of Industry and Trade determines that the method set forth in paragraph 3 above is not reasonably practical for allocation of the quota, the Ministry of Industry and Trade shall allocate the quota among countries having a substantial interest in supplying the investigated product. The allocation shall be based upon the proportions of the investigated product supplied by such countries during the previous three years. In allocating the quota among supplying countries, the Ministry of Industry and Trade shall take due account of any special factors which may have affected or may be affecting trade in the investigated product.

5. Notwithstanding the provisions of paragraph 3 and 4 above, in a case in which serious injury to the domestic industry has been found, the Ministry of Industry and Trade may allocate the quota among supplying countries on a different basis, provided that consultations have been held with supplying Members under the auspices of the Committee, and a clear demonstration is provided to the Committee that:

- (a) imports from certain countries have increased in, disproportionate percentage in relation to the total increase in imports of the investigated product during the representative period;
- (b) the reasons for the departure from the methodology for quota allocation envisaged under paragraphs 3 and 4 above are justified; and
- (c) the conditions of such departure are equitable to all suppliers of the product concerned.

6. Notwithstanding the provisions of Article 37, a definitive safeguard measure in the form of a quota allocated on the alternative basis provided for in paragraph 5 above shall not be extended beyond the initial period of its application.

Article 33

Notification in the Event of Termination of an Investigation With No Safeguard Measure Applied

If at any point during an investigation, the Ministry of Industry and Trade terminates the investigation with no definitive safeguard measure applied (e.g., in the event of a negative serious injury finding, or in the event that application of a definitive safeguard measure is determined not to be in the public interest), the Government of Jordan shall immediately notify the Committee, in conformity with the requirements established by the Committee.

Article 34

Duration of a Definitive Safeguard Measure

1. A definitive safeguard measure shall be applied for a period of no more than four years, including the period of application of any provisional measure, unless it is extended as provided for in Article 37.
2. The total duration of a definitive safeguard measure, including the period of application of any provisional measure, the period of initial application, and any extension thereof pursuant to Article 37, shall not exceed ten years, in accordance with the provisions of Articles 7.3 and 9.2 of the Agreement.

Article 35

Progressive Liberalization

A definitive safeguard measure whose period of application exceeds one year shall be progressively liberalized at regular intervals during the period of application, in accordance with the schedule published in the Notice Regarding Application of a Definitive Safeguard Measure provided for in Article 28.

Chapter IV: Review of a Definitive Safeguard Measure

Article 36

Review

1. If the duration of a definitive safeguard measure, including the period of application of any provisional measure exceeds three years, not later than the mid-term of the period of application of the measure, the Ministry of Industry and Trade shall examine the situation, through a review conducted in accordance with the procedures set forth in, Articles 11 through 19 of this law, *mutatis mutandis*, including a review of the effects of the definitive safeguard measure on the domestic industry concerned, and of the industry's progress in implementing its adjustment plan. The results of the review shall be published in a report prepared by the Ministry of Industry and Trade and, based on the results of the review, the Ministry of Industry and Trade shall decide to maintain or withdraw the definitive safeguard measure or to increase the pace of its liberalization.
2. A Notice to Maintain, Liberalize or Withdraw a Definitive Safeguard Measure, summarizing the results of the review, shall be published in two local newspapers. The contents of such notice shall conform, *mutatis mutandis*, to the requirements for the Notice Regarding Application of a Definitive Safeguard Measure provided for in Article 28.
3. The Government of Jordan shall notify the results of the review, including the withdrawal or any modification of the definitive safeguard measure, to the WTO Council for Trade in Goods through the Committee, in conformity with the requirements established by the Committee.

Chapter V: Extension and Reapplication of a Definitive Safeguard Measures

Article 37

Extension of a Definitive Safeguard Measure

1. If the domestic industry considers that there is a continuing need to apply a definitive safeguard measure beyond the initial period of application, it shall submit a written request for extension of the measure, including evidence that the industry is carrying out its adjustment plan, to the Ministry of Industry and Trade not less than six months before the end of that period. The Ministry of Industry and Trade shall conduct an investigation to determine whether an extension is warranted. For the purpose of such investigation and determination, the procedures set forth in this law for applying the original measure shall be followed, *mutatis mutandis*.
2. Subject to the provisions of Article 32.6, a safeguard measure may be extended one time only, for a period of not more than six years.
3. The Ministry of Industry and Trade may extend a definitive safeguard measure only if it determines through the investigation referred to in paragraph 1, above, that the

measure continues to be necessary to prevent or remedy serious injury, and that there is evidence that the domestic industry is adjusting.

4. An extended definitive safeguard measure shall not be more restrictive than at the end of the initial period of application. During the extension period, the measure shall continue to be progressively liberalized in accordance with the schedule published in a Notice to Extend a Definitive Safeguard Measure. Such Notice shall conform *mutatis mutandis* to the requirements for the Notice Applying a Definitive Safeguard Measure, provided for in Article 28.

5. In extending a definitive safeguard measure, the Government of Jordan shall endeavor to maintain a substantially equivalent level of concessions and other obligations to that existing under GATT 1994 between Jordan and the exporting Members which would be affected by such measures.

6. The requirements pertaining to notifications to the Committee and to the WTO Council for Trade in Goods set forth in Articles 11, 22, 26, 29, 31, 32, and 33 of these Regulations and the requirements pertaining to consultations with exporting Members whose interests would be affected by the measure set forth in Articles 22, 29 and 32 of this regulation, shall apply in full to any extension of a safeguard measure.

Article 38

Reapplication of a Safeguard Measure

1. No new safeguard measure shall be applied for a period of at least two years to imports of a product which were the subject of a definitive safeguard measure first applied after 1 January 1995.

2. No new safeguard measure shall be applied to the imports of a product for a period equal to one-half of the duration of an earlier definitive safeguard measure first applied after 1 January 1995 on that product, if such duration was more than four years.

3. Notwithstanding the provisions of paragraphs 1 and 2 above, a safeguard measure with a duration of 180 days or less may be applied to the imports of an investigated product which was the subject of an earlier safeguard measure if:

at least one year has elapsed since the date of imposition of the earlier safeguard measure on the imports of that product; and

a safeguard measure has not been applied on imports of the product more than twice in the five year period immediately preceding the date on which the new safeguard measure is to take effect.

TITLE VI: FINAL PROVISIONS

Article 39

International Obligations

The Law on National Production Protection and this regulation shall be applied in conformity with the obligations of Jordan under the Agreement Establishing the World Trade Organization, done at Marrakesh, on 15 April 1994, including the General Agreement on Tariffs and Trade 1994 (GATT 1994) and the Agreement on Safeguards annexed thereto.