GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

SCM/1/Add.28
23 October 1989

Special Distribution

Committee on Subsidies and
Countervailing Measures

Original: English/
French

INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

Legislation of Turkey

Reproduced herewith is the text of the Law on the Prevention of Unfair Competition in Importation which was enacted on 14 June 1989.

LAW ON THE PREVENTION OF UNFAIR COMPETITION IN IMPORTATION

Law No: 3577

Date Enacted : 16.6.1989
Official Gazette : 1.7.1989/20212

Purpose and Scope

Article 1 - The present Law covers the procedures and rules relating to the administrative, financial, economic and other measures to be taken and actions to be made and the formation and duties of a Board to resolve upon the necessary rules and implementary matters with a view to protecting an industry against unfair competition and/or preventing the impairment of the market due to dumped and/or subsidized imports, among unfair competition cases in importation.

Definitions

Article 2- For the purposes of the Law;

a) Dumping shall mean the importation in Turkey of a product exported from a country with an export price lower than the normal value of an identical or similar product,

b) Subsidy shall mean the provision of a direct or indirect benefit by the country of origin or exporting country to the firms in the production, manufacturing, export and transportation of a product exported to Turkey,

c) Export price shall mean the price actually paid or payable for the products sold for exportation purposes,

d) Similar product shall mean a product completely similar to or in case such product does not exist, such other product having characteristics similar to that of the dumped and/or subsidized product,

e) Normal value shall mean:

1- A comparable price actually paid or payable in the ordinary course of trade for an identical or similar product consumed in the exporting country or the country of origin, or

2- In case of absence of the sale of identical or similar product in the ordinary course of trade in the domestic market of the exporting country or the country of origin or in case such sales are not suitable for making a fair comparison, the comparable representative price of an identical or similar product exported to a third country, or

3- The price to be determined by adding a reasonable profit margin to the cost of production.

f) Comparable price shall mean a price of an identical or similar product comparable to the export price of the dumped and/or subsidized product determined with respect to the physical characteristics, sales quantitiy and conditions and at the same commercial level, preferably at ex-factory level and taking into consideration the closest dates possible,

g) Dumping margin shall mean the amount by which the normal value exceeds the export price,

h) Subsidy amount shall mean the amount of the direct or indirect benefit provided by the country of origin or exporting country to the firms in the production, manufacturing, export and transportation of such products,

i) Injury shall mean the dumped and/or subsidized imports causing or threatening to cause material injury or market impairment or phsyically retarding the establishment of an industry due to dumping and/or subsidization,

j) Ministry shall mean the Ministry the General Directorate of Importation is attached whereto,

k) General Directorate shall mean the General Directorate of Importation,

l) Board shall mean the Board of Evaluation of Unfair Competition in Importation.

Cases Requiring Measures

Article 3- Cases requring measures are dumped and/or subsidized products causing or threatening to cause material injury in an industry or engendering impairment of the market or physical retardation of an industry to be newly established in Turkey.

Complaint and Examination

Article 4- The General Directorate may, upon request or "ex officio" make or cause to be made a dumping and/or subsidy examination.

The relevant natural or legal persons or relating occupational institutions claiming that they suffered or are threatened to suffer material injury from or that the market is impaired by a dumped and/or subsidized imports or that such imports caused the physical retardation of the establishment of an industry may apply to the General Directorate in writing.

Procedures and rules relating to the complaint and examination shall be determined by a Regulation to be enacted by the Ministry.

Duties of General Directorate

Article 5- The duties of the General Directorate in relation with the present Law are as follows :

a) to make a preliminary examination upon complaint or, if necessary, "ex officio" and in the light of information and/or documentations submitted or other information available,

b) To make proposals to the Board as to whether an investigation shall be initiated or not,

c) in case of a decision for initiating an investigation, to conduct such investigation and to submit to the Board the results thereof together with a proposal on contingent measures which may be adopted as a result of the investigation,

d) To carry out the secretarial services of the Board, and to execute such other duties to be conferred by the Board.

The Board of Evaluation of Unfair Competition in Importation and its Duties

Article 6- The Board shall be composed of an authorized representative from the Ministry of Finance and Customs, the Ministry of Agriculture Forestry and Rural Affairs, the Ministry of Industry and Commerce, the Undersecretariat for State Planning Organization, the Union of the Chambers of Commerce, Industry, Maritime Trade and Commodity Exchanges of Turkey, the Union of Agricultural Chambers of Turkey and the relevant Head of Department of the General Directorate of Importation, all under the presidency of

the General Director of Importation or that of the Assistant Director General he will charge with such duty.

The Board may,if necessary, solicit information from universities and other establishments and instituitons.

The duties of the Board are ;

a) to resolve upon the initiation or not of an investigation or the suspension of an investigation already initiated,

b) to propose to the Ministry at any stage of the investigation, the adoptation of provisional measures in case of existence of adequate evidence,

c) To evaluate the investigation results,to adopt measures required thereby, to determine the dumping margin and/or subsidy amount and to submit through the General Directorate to the Ministry all final decisions to be taken together with their justification,

d) To adopt necessary measures in case of non-fullfilment of the undertakings.

Procedures and rules relating to the work of the Board shall be determined by a Regulation to be enacted by the Ministry.

Anti-dumping Duty and Countervailing Duty

Article 7- In the actual importation of dumped products an anti-dumping duty, and in the actual importation of a subsidized product a countervailing duty shall be levied on such dumping margin or subsidy amount as determined by the Board as a result of the investigation conducted and approved by the Ministry.Nonetheless, in case it is determined that the injury occuring on account of dumped and/or subsidized importation may be compensated by the imposition of a duty at a lesser quantity or rate than the established dumping margin or subsidy amount, a duty on such rate or quantity shall be applied.

Rules pertaining to the retroactive implementation of such duties to products whose actual importation is previously made shall be determined by a Decree of Council of Ministers. Nevertheless the period of retroactive implementation may not exceed 90 days from the adoptation date of provisional measures.

Duty Payer

Article 8- The duty payers of the anti-dumping duty or the countervailing duty are the natural or legal persons importing the dumped and/or subsidized products.

Collecting Authority

Article 9- The anti-dumping duty or the countervailing duty shall be collected or secured by the customs administrations independently from other taxes and duties levied on imports.

Investigation

Article 10- An investigation shall be initiated in case the examination carried out upon complaints or "ex officio" reveals an injury caused by the dumped and/or subsidized importation.

The procedures for and rules governing the investigation shall be determined by a Regulation to be enacted by the Ministry.

Undertakings

Article 11- The investigation may be suspended by the Board whenever the exporter shall accept and undertake, during the course of the investigation, to raise his prices to a level sufficient to offset the injury or the dumping margin and/or subsidy amount or shall declare and undertake to abide by a quantitative restriction in his exports or the determination of and decision on the cessation of the injurying effects of the dumped and/or subsidized importation of the non-existence of the object of the complaint.

The suspension of the investigation shall not prevent provisional measures previously adopted be made into definitive measures.

Rules relating to undertakings shall be determined by a Regulation to be enacted by the Ministry.

Provisional Measures

Article 12- In the event the national interest call for immediate intervention and/or adoptation of provisional measures during the conduct of the investigation on the importation subject to

complaint the deposit of a security in an amount equal to the dumping margin or the subsidy amount or in a rate sufficient to offset the injury determined by the Board may be decided upon Ministerial approval.

In case of a decision for a deposit of a security in an amount equal to the dumping margin or the ubsidy amount or in a rate sufficient to offset the injury, such effect shall be announced to relevant parties by publication in the Official Gazette.

The period validity of provisional measures is four months. This period may be extended for two months by the Ministry.

The rules pertaining to the implementation of provisional measures shall be determined by a Decree of Concil of Ministers.

Definitive Measures

Article 13- In the event of cases requring definitive measures adopted after the conclusion of the investigation,an anti-dumping duty or a countervailing duty in an amount equal to the dumping margin or subsidy amount or to offset the injury as determined by the Board and as become decisive upon Ministerial approval shall be levied. In case of previous security deposit action shall be taken in accordance with Article 14.

Among definitive measures taken the period of validity of the rate and/or the amount of the anti-dumping duty or the countervailing duty, the rules for the revision of the implementation of such duties in accordance with changing circumstances and the rules governing the implementation of definitive measures shall be determined by a Decree of Council of Ministers.

In case an identical or similar product investigated is both dumped and subsidized the anti-dumping duty and the countervailing duty may not be concurrently applied, the one with higher rate shall only prevail.

The imposition of an anti-dumping duty or a countervailing duty shall not hinder the actual importation of the relevant product.

Refund

Article 14- If the definitive amount of the anti-dumping duty or the countervailing duty is higher than the amount of the security previously deposited the difference shall not be collected. In case the definitive amount of the duty is less than the security previously deposited the difference shall be refunded.

If it is decided as a result of the investigation that dumping and/or subsidy do(es) not exist, provisional measures shall be lifted and securities taken shall be reimbursed.

In case the investigation concludes the non-existence of a dumping and/or subsidy provisional measures are lifted and collected securities are refunded.

The anti-dumping duty or the countervailing duty of the product requested for being returned or destroyed on account of its inconformity with the provisions of the sales contract, shall be refunded within the context of the dispositions of the Customs Laws relating to the refund of customs duties therefor.

Other Legislation

Article 15- Such procedural and formal provisions of the Customs Laws relating to the collection, prosecution and securing the customs duties not conflicting with the present Law shall also apply in the procedures for the collection, prosecution and securing of the anti-dumping duty or the countervailing duty.

The anti-dumping duty or the countervailing duty unpaid shall be prosecuted by the customs administrations in accordance with the provisions of the Law No.: 6183 on the Prosecution of the Public Receivables.

Repealed and Inapplicable Provisions

Article 16- Article 21 of the Customs Law 1615 is hereby repealed.

In the implementation of this Law, the provisions of the Customs Law and other laws contradicting this Law shall not apply.

Decrees of The Council of Ministers and Regulations

Article 17- Hereinafter;

a) The Decrees of the Council of Ministers mentioned in the Articles 7, 12 and 13, and

b) The Regulations mentioned in Articles 4, 6, 10 and 11,

shall be published within 3 months following the promulgation of this Law.

Entry Into Force

Article 18- This Law shall enter into force on the third month following its publication.

Execution

Article 19- The provisions of this Law shall be executed by the Council of Ministers.

Decree No. : 89/14506

The entry into effect of "the Decree on the Prevention of Unfair Competition in Importation" has been decided by the Council of Ministers on 8 / 9 /1989, pursuant to the dispositions of the Law No.: 3577 dated 14.6.1989.

DECREE ON THE PREVENTION OF UNFAIR COMPETITION IN IMPORTATION

Purpose and Scope

Article 1 - The present Decree covers administrative, financial, economic and other measures to be taken and actions to be made with a view to protecting an industry against unfair competition and/or preventing the impairment of the market due to dumped and/or subsidized imports, among unfair competition cases in importation.

Retroactivity

Article 2 - The following are the cases for imposing duties retroactively :

a) for dumped products :

- that there is a history of dumping which caused injury and the importer being aware of or established as susceptible of being aware of the exporter's dumping and such practice causing injury;

- that the realization of dumped importation in a quantity causing injury in a short period of time, to such an extent that, in order to preclude it recurring, it appears necessary to impose an anti-dumping duty retroactively on those imports.

b) for subsidized products ;

- that the importation made causing injuries difficult to relieve, on account of export subsidies granted in contravention to the provisions of the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the GATT and the obligation for countervailing duties being retroactive in order to prevent the recurrence of such injuries.

Retroactivity shall also apply in case of violation of an undertaking issued for dumped or subsidized products. However such implementation may not anterior to the date of the violation of an undertaking.

Retroactive implementation is limited to 90 days.

Rules Governing Provisional and Definitive Measures

Article 3 - The amount or the rate of the security or duty shall be determined by indicating the exporters of the products and the country of origin or the country of export.

In case of several exporters from the same country and impossibility of determining all exporters, provisional and definitive measures may be applied to all such investigated products imported from that country.

In case the investigated product is imported from more than one country, measures may be taken on a non-discriminatory basis on imports of such product causing injury other than such exporters or countries whose undertakings have been accepted.

Article 4 - In case definitive measures shall be resolved as the outcome of an investigation, provisional measures previously taken during the investigation, if any, shall made into definitive measures.

The acceptance of an undertaking and the suspension of an investigation shall not prevent the previously taken provisional measures to be made into definitive measures.

Article 5 - In case of taking provisional or definitive measures against dumped and/or subsidized imports, the amount or the rate of the security or duty, the investigated product, exporter or the country of origin or the country of export as well as other information appurtenant to the investigation shall be announced by publication in the Official Gazette.

Definitive measures taken against dumped and/or subsidized imports shall remain in effect as long as necessary to remove the effects of the injury caused by such importation.

Revision of Definitive Measures

Article 6 - Decisions relating to definitive measures may be revised upon the request of one of the concerned parties or "ex officio" at least one year after the conclusion of the investigation. In such event new evidences justifying the revision must be submitted to the General Directorate of Imports.

If it is decided to held a review, the investigation shall be re-opened and conducted. Nonetheless the re-opening of the investigation shall not prevent the implementation of measures previously taken and which are actually in force.

Entry Into Force

Article 7 - This Decree shall enter into force on 1.10.1989.

Execution

Article 8 - This Decree shall be executed by the Prime Ministry.

Prime Ministry Undersecretariat for Treasury and Foreign Trade

REGULATION ON THE PREVENTION OF UNFAIR COMPETITION IN IMPORTATION

SECTION ONE
Purpose, Scope, Definitions

Purpose and Scope

Article 1 - The present regulation covers the procedures and rules relating to the administrative, financial, economic and other measures to be taken and actions to be made with a view to protecting an industry against unfair competition and/or preventing the impairment of the market due to dumped and/or subsidized imports, among unfair competition cases in importation, pursuant to the dispositions of the Law No.: 3577 on the Prevention of Unfair Competition in Importation.

Definitions

Article 2 - For the purposes of this regulation;

a) The General Directorate , shall mean the General Directorate of Imports,

b) The Board , shall mean the Board of Evaluation of the Unfair Competition in Importation.

SECTION TWO
Procedures and Rules Governing Complaint and Investigation

Complaint

Article 3 - Complaints relating to sufferance of or being under threat of sufferance of material injury or to the impairment of the market or to physical retardation of the establishment of an industry on account of dumped and/or subsidized imports shall be

submitted to the General Directorate in writing and in a manner to include the information referred to in Annex-1 hereto.

Complaints must include sufficient evidence in order to have an investigation initiated. In case of lack of sufficient evidence such a fact shall be notified to the complaining party.

Examination

Article 4 - The General Directorate shall complete the examination he shall make upon complaint or "ex officio" within 60 days at the latest and shall make a proposal to the Board as to whether investigation shall be or not initiated.

Initiating Investigation

Article 5 - Subsequent to the completion of the examination made upon complaint or if necessary "ex officio" by the General Directorate within 60 days at the latest, the Board shall decide as to whether an investigation shall be initiated or not.

In case the decision shall be issued for not initiating an investigation, procedures shall be discontinued and the fact shall be notified to parties concerned.

In case the decision shall be issued for initiating an investigation such decision shall be published in the Official Gazette and questionnaires provided in Annex-2 and Annex-3 shall be sent to the importers and exporters of the product. The parties concerned obliged to convey in written form, the information requested in the questionnaires as well as other information and documents they will deem useful for the investigation to the General Directorate within 45 days from the date of dispatch. Such period may be extended up to 30 days provided that recourse shall be made by the parties concerned within due time.

Collection and Verification of Information

Article 6 - For the purposes of verifying the information provided during the investigation and completing lacking information, examinations may be conducted in the offices of the natural and legal persons. Such examinations may be conducted outside Turkey as well, if deemed necessary. Whenever expedient, according to special conditions of the investigated matter, information may be obtained from relevant governmental institutions as well.

In case any party shall fail to provide the necessary information in due time or shall provide incorrect information or shall reject to provide information or shall be known as hindering the investigation, decision shall be taken "ex officio" according to the available data.

Confidentiality of Information

Article 7 - Information obtained shall only be used in investigations related with dumping and/or subsidy.

The parties concerned may request the information they provide to be kept confidential. With a view to ensuring transparency in the investigation and to ensuring maximum protection of the mutual interests of the parties, requests to be made for such purposes must contain the grounds for the confidentiality request and the non-confidential summary of the information, or in case such summary would prove impossible, a certificate evidencing the justification thereof must be submitted.

In the event the request for confidential treatment shall not be deemed just or a notification shall be made for the inconvenience of the total or even partial disclosure of the information, such an information may be disregarded.

In cases where the administration is due to adduce evidence on account of recourse to legal action against the implementation of the legislation on the prevention of the unfair competition in importation, request shall be made to the relevant jurisdiction in order to have the information considered confidential subjected to the provisions of the Administrative Procedural Law No.: 2577, Article 20/4.

Hearing Parties

Article 8 - During the course of the investigation the General Directorate may individually or collectively hear the parties. Such interviews shall be made upon the request of the parties or the General Directorate.

Right of Examination

Article 9 - Parties shall be recognized the right to examine such information extraneous to examinations made with respect to the investigations or not being confidential, provided that written application shall be made to the General Directorate.

Suspension of the Investigation

Article 10 - In case of acceptance of undertakings or determination of and decision on the dumped and/or subsidized imports not being injurious effect any more or the removal of the subject matter of the complaint, the investigation may be suspended by the Board upon the proposal of the General Directorate, without proceeding to provisional or definitive measures.

Nonetheless the acceptance of the undertakings shall not obligedly result in the suspension of the investigation. The investigation may be concluded upon the request of the exporter or the country of origin or the country of export or upon the decision of the Board.

Investigation Term and Announcement

Article 11 - The conclusive decision relating to the complaint about a dumped and/or subsidized importation shall be rendered within one year from the initiation of the investigation to the latest.

The result of the investigation shall be announced by publication in the Official Gazette.

SECTION THREE
Undertakings

Acceptance and Validity of Undertakings

Article 12 - During the course of the investigation the country of origin or the country of export or the exporter may accept and undertake that he will raise his price to a level sufficient for setting the dumping margin and/or the subsidy amount or observe certain quantitative restrictions in his exportations.

Whenever the General Directorate shall conclude that the acceptance of the price undertakings shall not be appropriate on account of the multitude of the actual or contingent exports or other reasons, undertakings proposed may not be accepted.

The General Directorate may also "ex officio" propose for undertakings to be made. Nevertheless proposed undertakings are not due to be accepted by the exporter or the country of origin or the country of export.

Undertakings shall last until the dumping and/or subsidy is ceased.

Undertakings Not Fulfilled

Article 13 - The General Directorate may solicit information from the exporter or the country of origin or the country of export whose undertaking is accepted as to whether his undertaking is fulfilled and may conduct researches for verifying such information. The failure of the exporter or the country of origin or the country of export to provide information or his turning down the request for a research shall be deemed as a failure to fulfill an undertaking.

In case of establishment of a failure to fulfill an undertaking provisional measures may be taken on grounds of existing data by the Board upon the proposal of the General Directorate.

SECTION FOUR
Dumping

Notion of Dumping

Article 14 - The importation in Turkey of a product exported from a country with a price lower than the normal value of an identical or similar product shall be considered as dumping and the determinations of a dumping shall be carried out within the context of the dispositions of the Articles provided under the present section.

PART ONE
Normal Value

Determination of the Normal Value

Article 15 - The normal value is a comparable price actually paid or payable in the ordinary course of trade for the identical or similar product consumed in the exporting country or the country of origin.

In case of absence of the sale of identical or similar product in the ordinary course of trade in the domestic market of the exporting country or the country of origin or in case such sales are not suitable for making a fair comparison, the comparable representative price of an identical or similar product exported to a third country or the price determined by adding a reasonable profit margin to the cost of production may be acceptable as normal value.

Calculation of the Cost of Production

Article 16 - The cost of production shall be calculated by adding a reasonable amount of the administrative, sales and other sundry expenses to fixed and variable expenses which include the material and production expenditures in the country of origin in the ordinary course of trade. The profit may not exceed such profit margins taken as a basis in the domestic market of the country of origin in the sales of an identical or similar product.

In case of unreliable data obtained from the cost of production calculation or where the exporter in the country of origin neither produces nor sells the said product.in the domestic market, the prices or costs of other sellers and producers who produce or sell the identical or similar product in that country shall be taken into consideration.

In other cases the cost of production and the profit margin shall be calculated on a reasonable basis by utilizing available information.

Ordinary Course of Trade

Article 17 - Sales shall be deemed as not being made under ordinary course of trade whenever the true sales price of the identical or similar product in the domestic market of the country of origin shall be determined as being lower than its cost of production, such product is imported in substantial quantities in Turkey and the sales during the investigation period are not made on a price allowing for all expenses to be added to the cost of production.

In such event the normal value shall be the export price to third countries or the price to be obtained by adding a reasonable profit marin to the cost of production or by adding a reasonable profit margin to a selling price corresponding to the lowest cost of production in the domestic market or to an amount which offsets the loss occurred on account of sales made below the cost of production.

The dispositions of above paragraphs shall also apply in case of existence of association or a similar arrangement between the parties influencing the prices or the costs.

Available informations shall be utilized in the calculation of the normal value pursuant to the present Article.

State Trading Countries

Article 18 - For the purposes of importations from countries enumerated as State Trading Countries in the Importation Régime Decree and other states not applying free market economy, the normal value shall be calculated by taking into account anyone of below mentioned criteria :

a) The price on which the identical or similar product is actually sold for consumption purposes in the domestic market of a market economy third country,

b) The price determined by adding a reasonable profit margin to the cost of production of the identical or similar product in a market economy third country,

c) In cases prices indicated under paragraphs (a) and (b) above do not form an appropriate basis, the price actually paid or payable for the identical or similar product in Turkey adjusted in a manner to include a reasonable profit margin.

Macro-economic data shall be utilized in the selection of the market economy third country.

Other Cases in the Determination of the Normal Value

Article 19 - In case of a product imported not directly from the country of origin but from an intermediate country, the normal value is the comparable price actually paid or payable for the identical or similar product in the domestic market of the exporting country or the country of origin.

In cases where the product is loaded only in transit through the exporting country, is not produced in the exporting country or the comparable price for that product does not exist in the exporting country, the price in the country of origin may be taken as a basis.

PART TWO
Export Price

Determination of the Export Price

Article 20 - The export price is the price actually paid or payable for the products sold for exportation purposes.

In case of non-existence of the export price or the establishment of a beneficial association or similar arrangement between the exporter and importer or a third party or a price actually paid or payable for the product sold for exportation purposes being unreliable by any other reasons whatsoever, the price on which the product is resold to a third party purchaser not having any relationship with the exporter may be taken as basis.

If the product is not resold to such purchaser or not sold under such qualifications and terms it is imported, the export price may be calculated on any basis which may be considered reasonable.

In such occurrences all costs and expenses incurred in between the importation and the resale, including the customs duties and other duties, as well as a reasonable profit margin shall be taken into consideration.

Matters to be Taken Into Consideration in the Determination of the Export Price

Article 21 - The following items shall be taken into consideration in the researches relating to the determination of the export price ;

- usual transportation, insurance, handling and loading expenses and ancillary expenses,

- customs duties,anti-dumping duties, countervailing duties and other taxes as well as additional fiscal obligations due to be paid in the importing country on account of importation or the sale of products,

- a reasonable margin for overheads and profit and/or any commission usually paid or agreed.

SECTION FIVE
Comparison

Price Comparison

Article 22 - Closest possible dates shall be taken into consideration in the comparison of the normal value with the export price.

Following matters shall be taken into account in order to have the prices fairly compared, provided that such a request should be forwarded and documents evidencing the same are presented by the parties :

- physical characteristics,

- import charges and indirect taxes,

- selling expenses such as transportation, insurance, handling, loading charges and ancillary costs such as packing, credit, warranties, guarantees and other after-sales services depending on trading terms.

Averaging and Sampling Techniques

Article 23 - In case of variance of investigated prices normal value and the export price shall be calculated by using the weighted averages, sampling techniques and other statistical methods.

SECTION SIX
Subsidies

Notion of Subsidy

Article 24 - The provision of a direct or indirect benefit by the country of origin or exporting country to the firms in the production, manufacturing, export and transportation of a product exported to Turkey shall be deemed as subsidy.

The "Illustrative List on the Export Subsidies" referred to in the Annex to the Agreement on the Interpretation and Application of the Articles VI, XVI, and XXIII of General Agreement on Tariffs and Trade shall be taken into account in

evaluations as to which cases shall be considered as being a subsidy and as to the calculation of the subsidy amount on itemized basis.

The exemption of the component items entering into the structure of the identical or similar product subject to export in the country of origin or exporting country from custom duties or indirect taxes or the refund of such duties and other disbursements shall not be deemed as being a subsidy.

Determination of the Subsidy

Article 25 - In case the establishment of a subsidy not made according to manufactured, produced, exported or transported quantities, the subsidy amount shall be calculated by the reasonable distribution of the subsidy value at the production and exportation level of the investigated product, within an adequate period of time. Usually such a period is the accounting year of the party availing of the subsidy.

In case of actual or contingent acquisition of fixed assets as subsidy, the subsidy value shall be calculated by deducting the ordinary amortization shares of such assets. In case of assets not subject to amortization, the subsidy shall be assessed as an interest free loan.

In case the information required during the course of the subsidy investigation is not submitted in accordance with produced, exported or transported quantities, the amount or the subsidy shall be calculated within the context of the imported quantity and the importation value of the said product as well as other information.

In importations from state trading countries, the amount of the subsidy shall be determined within the framework of matters set forth in Articles 18, 20, 21 and 22.

The weighted average method shall be used in cases of variance of subsidy amounts.

Deductions

Article 26 - Following items shall be deducted from the aggregate subsidy amount in the calculation of the subsidy amount :

a) charges for the application and other expenses made for profiting from the subsidy,

b) exportation taxes, customs duties and other similar fiscal obligations imposed on the product exported to Turkey for the purposes of reducing the subsidy and other additional fiscal obligations extraneous thereto.

The implementation of above deductions is contingent to the verification of the relevant party.

SECTION SEVEN
Injury

Notion of Injury

Article 27 - Shall be deemed as injury, the dumped and/or subsidized imports causing or threatening to cause material injury or market impairment or materially retarding the establishment of an industry due to dumping and/or subsidization.

An industry indicates all producers in Turkey of the identical or similar product or the producers realizing the substantial amount of the Turkish production for these products.

However, exceptionally, in case of producers having trade relations with the exporters or importers or being themselves the importers of the products allegedly dumped and/or subsidized, an industry shall mean the remaining portion of the producers.

Material Injury

Article 28 - The following factors shall be taken into account in the determination of material injury :

a) the volume dumped and/or subsidized imports, for the purpose of determining whether a significant increase particularly absolute or relative, occurred with respect to production and consumption in Turkey,

b) the prices of dumped and/or subsidized imports as to whether a significant price undercutting has been made with respect to the price of the identical or similar product in Turkey,

c) the effect of economic indices such as the following on the relevant industry;

- production,
- utilization of capacity,
- stocks,
- sales,
- market share,
- prices,
- profits,
- return on investment,
- cash flow,
- employment.

Material Injury Threat

Article 29 - The following shall be taken into consideration in the determination of the threat of material injury :

a) the export capacity actually available in or to be realized in the near future in the country of origin or the exporting country and the expected exports to Turkey,

b) the rate of increase of the dumped or subsidized exports to Turkey,

c) the nature of any subsidy and the tra effects likely to arise therefrom.

Effect of Injury

Article 30 - The effect of the dumped and/or subsidized imports on the domestic production of the identical or similar product shall be determined according to available data.

In case an identical or similar product could not be identified, the effects of the dumped and/or subsidized imports shall be evaluated through examination of the production of the closest product group including the product with necessary information available.

SECTION EIGHT
The Board of Evaluation Of Unfair Competition In Importation

Working Procedures and Rules of the Board of Evaluation of Unfair Competition in Importation

Article 31 - The Board shall be composed of an authorized representative from the Ministry of Finance and Customs, the Ministry of Agriculture Forestry and Rural Affairs, the Ministry of Industry and Commerce, the Undersecretariat for State Planning Organization, the Union of Trade, Industry, Maritime Chambers of Commerce and Stock Exchange of Turkey, the Union of Agricultural Chambers of Turkey and the relevant Head of Departmant of the General Directorate of Importation, all under the presidency of the General Director of Importation or that of the Assistant Director General he will charge with such duty.

The Board shall convene whenever necessary, upon the call by the President of the Board. The agenda of the meeting shall be drawn up by the General Directorate and summary information relating to the agenda items shall be conveyed to Board members in advance.

The quorum is the simple majority. In casesuch a majority shall not be obtained in the first meeting no majority shall be required in the meeting to be held the following day.

The Board shall resolve upon the majority of participants to the meeting. In case of a close vote the vote of the President shall be the casting vote.

According to the nature of the agenda items to be taken up, the Board President may invite on advisory basis, the representatives of the universities or other relevant establishments and institutions to attend the Board meetings. Such persons may not participate in votes.

Board members may not take part to deliberations in case their relation in a manner provided under the Code of Civil Procedure Article 245, paragraphs 3 and 4 with investigated parties is established to exist.

Representatives of the occupational organization being Board member must not be the producer, exporter or importer of the identical or similar product or must not deal with the trade thereof by any manner whatsoever. Otherwise action shall be taken according to the provisions of above paragraph.

SECTION NINE
Final Dispositions

Information Provision

Article 32 - Whoever shall import a product upon whose importation an anti-dumping duty or a countervailing duty shall be imposed as a result of an investigation, shall inform the General Directorate on the quantity and value of such imports prior to importation procedures and within one week after the importation is realized effectively.

Entry into Force

Article 33 - The present Regulation shall enter into force on 1.10.1989.

Execution

Article 34 - The present Regulation shall be executed by the Prime Ministry.

Annex 1

ANTI-DUMPING AND/OR SUBSIDY QUESTIONNAIRE FOR COMPLAINANTS

The applicants should answer the qustionnaire completely and exactly.They should provide all the other documents concerned (such as bills, bids, statistics of trade and production). Information,if it covers confidentiality in particular,should be accompanied by a confidential annex and by a non-confidential summary of the information and by a statement describing the need for confidentiality.

The following details should be provided by all applicants in complete and exact manner in respect of their knowledge.They should prove that they are the representatives of the other firms, when they are acting on behalf of the others.

1. Complainant;

1.1. Name and adress:

1.2. Producers on whose behalf the complainant is acting (1) :

1.3. Proportion of Turkey's production represented by the complainants (2) :

Goods being dumped and/or subsidized;

2.1. Precise description of the products (technical characteristics, exact use, etc.) :

2.2. Tariff Headings or Subheadings :

2.3. Customs duty :

2.4. Country of origin :

2.5. Exporting country :

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(1) Adresses should be clear and full including,where possible, telephone,telex and fax numbers.

(2) Where the complainant is not representing the whole domestic production, names and adresses of the other producers should be given.

2.6. Name and adresses of producers in the country of origin :

2.7. Name and adresses of exporters to Turkey in the country of origin :

Normal value and export price

3.1. The normal value of products subject to dumping and/or subsidy should be determined in accordance with the provisions of Chapter IV, Part I of the Regulation on the Prevention of Unfair Competition in Importation.For the purpose of a fair comparison of normal value and export price, the provisions of the article 22 of the mentioned Regulation should be taken into consideration.

3.1.1. Normal value :

3.1.2. Export price :

Injury

The information requested below should relate to the alleged products subject to dumping and/or subsidy.Figures should cover the last three calendar years and present year to date.

4.1. Development of consumption in Turkey :

	Quantity
19..	
19..	
19..	
19..	

4.2. Share of market held by the dumped and/or subsidized imports :

	Quantity
19..	
19..	
19..	
19..	

4.3. Producers in Turkey ;

4.3.1. Cost price :

4.3.2. Sale price :

4.4. Development of domestic production :

	Quantity
19..	
19..	
19..	
19..	

4.5. Development of capacity and its utilization :

4.6. Devolopment of stocks :

4.7. Sales (Volume and value) ;

4.7.1. On the domestic market :

4.7.2. Outside the country :

4.8. Market share held by domestic producers :

	Quantity
19..	
19..	
19..	
19..	

4.9. Price development (in particular depression of prices or prevention of price increases which would otherwise have occurred.):

4.10. Profits/losses (net before tax % of turnover) :

4.11. Level of employment :

4.12. Export capacity in the country of origin or export,already in existence or which will be operational in the foreseeable future, and the likelihood that the resulting exports will be to Turkey.

Annex 2

ANTI-DUMPING AND/OR SUBSIDY QUESTIONNAIRE FOR IMPORTERS

Unless otherwise specified,replies should relate to a period of twelve months prior to the first day of the month in which the notice of the investigation was published in the Official Gazette.

If there is insufficient space in any section of the questionnaire to provide the details asked for they should be given in an annex to the questionnaire.

General;

1.1. Legal form and clear adress of your firm :

1.2. Relationship, if any, with the country of origin or export (1) :

1.3. Do you act as importer,or industrialist or fiduciary agent :

1.4. Range of products in question :

2. Information relating to imports;

2.1. Total imports per exporting country concerned of the product in question during the last four years and current year to date :

	Quantity	Country
19..		
19..		
19..		
19..		
19..		

(1) In cases where there is an association or a compensatory arrangement between the exporter(s) and your firm, together with details of prices charged by them and quantities involved and the relation to your firm must be explained.

2.2. Prices paid or payable to the exporter(s) for the product in question (2) :

2.2.1. Unit price :

2.2.2. Currency specified in sales contract :

2.2.3. Terms of sale (FOB, CIF, etc.)

2.2.4. Terms of payment (30, 60 days, L/C, etc.)

2.2.5. Reductions,discounts,rebates, or commissions (specify precise conditions for granting) :

2.2.6. Readable copies of import licences,customs entrance manifests and invoices which are related to this manifests must be sent.

2.3. Nature and amount of costs resulting from import expenses must be determined by using the followings:

2.3.1. Outland freight :

2.3.2. Insurance :

2.3.3. Customs duties and other import charges :

2.3.4. Share held by the municipality :

2.3.5. Stamp and quay duty :

2.3.6. Funds imposed on the imports :

2.3.7. Other expenses in customs :

2.3.8. Banking costs :

2.3.9. Inland transport :

2.3.10. Other costs (packaging,handling, storage, etc.):

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(2) where the price varies because there is more than one exporting company or according to the specifications of the product it must be indicated the range of prices prevailing and must be provided full details seperately, including an indication of the quantities sold at the different prices.

3. Information relating to resale (3);

3.1. Resale of the product in question to third parties which have no relation to the exporter(s):

3.1.1. Unit price :

3.1.2. Terms of sale (ex-factory,delivery, etc.) :

3.1.3. Terms of payment :

3.1.4. Reductions, discounts, rebates or commissions available from above price (specify precise conditions for granting) :

3.2. Nature and amount of any payment made to third parties as a result of your sales (commissions, etc.) :

3.3. Percentage of total domestic sales made to different types of customer(stockist, end user, etc.):

4. The net profit margin per unit sold of the product in question must be calculated and together with the result and the method used in calculation must be declared:

(3) If the price varies according to the specifications of the product, or location of purchaser, it must be indicated that the range of prices prevailing and must be provided full details seperately, including indication of the quantities sold at the differnt prices.Additionally, list of customers who are related to your firm, or with whom you have a compensatory agreement, together with details of prices charged to them and quantities involved must be declared.

Annex 3

ANTI-DUMPING AND/OR SUBSIDY QUESTIONNAIRE FOR EXPORTERS AND OTHER INTERESTED PARTIES

Unless otherwise specified,replies should relate to a period of twelve months prior to the first day of the month in which the notice of the investigation was published in the Official Gazette.

Where the information and documents are submitted confidentially, a non-confidential summary and a statement of the reasons why it is considered confidential must be explained.

If there is insufficient space in any section of the questionnaire to provide the details asked for they should be given in an annex to the questionnarie indicating clearly to which section it relates.

All producers and exporters receiving this questionnaire should complete it.However,if you are not a producer of the product in question then,in addition to completing the questionnaire yourself, you should request your supplier to complete it.

Replies to the questionnaire are required to be in Turkish.

1. General;

1.1. Legal status of the firm :

1.2. Range of products produced and/or marketed :

1.3. Total sales ;

	For the last accounting year	For the current year
	Value-quantity (FOB)	Value-Quantity (FOB)
1.3.1. Sales of products in question :		
1.3.2. Exports of products in question :		
1.3.3. Exports of products in question to Turkey :		

1.4. Production capacity ;

1.4.1. Theoretical capacity :

1.4.2. Capacity utilization :

1.5. Financial and accounting data (1) :

Quantities sold;

Details by type of the product in question must be given and it must be indicated that which exports, if any, are made to related companies.

	19..	19..	19..	19..	19.. (Current year)
2.1. Sales on the domestic market:					
2.2. Exports to Turkey :					
2.3. Exports to other countries :					

3. For sales during the investigation period,together with export price to Turkey and reductions, discounts,rebates or commissions available from the price (specify precise conditions for granting) must be declared (2);

3.1. Price actually paid or payable by the customer :

3.1.1. Unit price :

3.1.2. Currency specified in sale contract :

3.1.3. Terms of sale (FOB,CIF etc.) :

(1) Annual reports,audited or published consolidated financial statements for the last three years must be attached and the profit/loss situation of the product concerned must be indicated separately .The methods,used to alocate costs among organizational units,e.g. parent company charges to subsidiaries, plant-wide charges to specific departments of a plant and allocation between this product and other activities,must be described.

(2) Where the price varies according to the specifications of the products or the type or location of purchaser, the range of prices prevailing must be indicated and full details including an indication of the quantities sold at different prices must be provided separately.

3.1.4. Terms of payment :

3.2. Nature and amount of any costs or charges beyond the ex-factory level included in prices indicated above;

3.2.1. Freight :

3.2.1.1. Within exporting country :

3.2.1.2. Outside exporting country :

3.2.2. Insurance :

3.2.3. Other costs must be listed separately(packaging, handling,loading,customs clearance,etc.):

3.3. Nature and amount of any payment made to third parties as a result of your sales (commissions,etc.).Indicate whether included in price :

3.4. Do you have any association or compensatory arrangement with any purchaser in Turkey,either directly or through a third party? if so,give a brief description :

4. Normal value based on domestic sales;

4.1. Price paid or payable by unrelated purchaser(s) on the domestic market for the product in question:

4.1.1. Unit price :

4.1.2. Terms of sale (ex-works,delivered,inclusive/ exclusive of sales or similar taxes, etc.) :

4.1.3. Terms of payment :

(2) Where the price varies according to the specifications of the product or the type or location of purchaser, it must be indicated that above the range of prices prevailing and must be provided full details separately, including an indication of the quantities sold at different prices.If price lists are available,copies of those which are valid during the period concerned must be supplied .

4.2. List of customers who are related to your group or with whom you have compensatory agreement,together with details of prices charged to them and quantities involved :

4.3. Nature and amount of any charges beyond the ex-factory level included in the price indicated in the paragraphs (4.1 and 4.2):

4.3.1. Freight :

4.3.2. Insurance :

4.3.3. Other costs must be listed separately(packaging, handling,loading,customs clearance,etc.):

4.4. Nature and amount of any payment made to third parties as a result of your sales (commissions,etc.).Indicate whether included in price :

4.5. Percentage of total domestic sales made to different types of customer (stockholder,wholesaler,end user, associated or related companies,etc.):

5. Normal value based on exports to third countries on costs of production :

This section only to be completed where:

a- there are no domestic sales of a similar product,or

b- domestic sales of the similar product do not permit a proper comparison,or

c- domestic sales of the similar product are made at a loss,or

d- you are requested to do so.

5.1. Export sales to third countries;

In export to third contries,reductions,discounts, rebates or commissions available from the unit price actually paid or payable must be described (specify precise conditions for granting).Where price varies according to the specifications of the product or the type or location of purchaser,indicate the range of prices prevailing and provide full details separately, including an indication of the quantities sold at the different prices.

5.1.1. Unit price :

5.1.2. Currency specified in sales contract :

5.1.3. Terms of sale (FOB,CIF, etc.):

5.1.4. Terms of payment :

5.2. Nature and amount of any charges beyond the ex-factory level included in the price indicated above :

5.2.1 Freight ;

5.2.1.1. Within exporting country :

5.2.1.2. Outside exporting country :

5.2.2. Insurance :

5.2.3. Other (specify packaging, handling, cartage, loading,customs clearance,etc. and list amounts seperately) :

5.2.4. Nature and amount of any payment made to third parties as a result of your sales (such as commissions).Indicate whether included in price:

5.2.5. Do you have any association or compensatory arrangements with any purchaser in the countries of destination ,either directly or through a third party? If so,give a brief description :

5.3. Cost of production for the product in question;

Figures should relate to the sales made during the period specified in the general instructions.If data are based on standard,rather than actual costs, describe the method used to determine standards, the frequency of revision and the treatment of variances :

5.3.1.Cost of raw materials ;

Please indicate the total cost of raw materials including inward transport,duties,and other costs incurred in obtaining the raw materials.Identify separately at least t he major raw material elements their input rate and their cost per input unit :

5.3.2. Cost of direct labour ;

This should include the cost of any labour which can be identified or associated with a particular product or process.The cost includes basic pay,overtime pay,incentive pay,bonuses, shift differentials, employee benefits(housing, holiday pay,retirement,social security programmes) and any other employee-related expenses.Specify average labour productivity as measured in units normally used in your industry:

5.3.3. Overheads;

5.3.3.1. Manufacturing overheads :

These include all expenses incident to and necessary for the production of the product. The following items at least should be seperately identified : indirect labour (including contract labour),supervision, depreciation,rent,power,maintenance and repairs,any other cost which is 5 % or more of total manufacturing overhead.Also include and identify here accounting adjustments to inventory (e.g. year-end adjustments based on physical inventory,inventory reserves):

5.3.3.2. Financing costs :

5.3.3.3. Packing costs :

5.3.3.4. Selling, general and administrative costs:

These include all other costs incurred.Each item accounting for over 5 % of the total under this heading should be separately identified :

5.3.4. Profit/loss (net before tax) after deducting the above costs from the sales revenue :

5.3.5. Level of profit considered reasonable for this product :

5.3.6. Is any item which inputs directly into the production of the product concerned supplied by a party with whom your firm is associated or has a compensatory agreement?

5.3.7. Describe the general and cost accounting system used by your firm.The description should include,but not be limited to :

5.3.7.1. Methods used to account for incidential revenue :

5.3.7.2. Methods used to account for work performed by the company which is capitalised :

5.3.7.3. Methods used to account for the cost and revenue of any by-products :

5.3.7.4. Depreciation methods used and useful life adopted by asset group or class :

5.3.7.5. Details of any material differences between the production cost data supplied in your reply to this questionnarie and the costs normally determined using your accounting system :

6. Allowances;

6.1. Differences in physical characteristics of the product :

Where the product sold on your domestic market or on third markets is not identical with that exported to Turkey,Indicate the nature of any difference,its effect on the market value in your country and its effect on production costs :

6.2. Differences in quantities ;

Where any difference between the export price and the normal value arises wholly or partly because they relate to different quantities and you wish to claim an allowance for this ,indicate;

6.2.1. The period during which any quantity discount has been made freely available in the normal course of trade on the market used to establish normal value and the proportion of trade in that market to which it has been applied :

6.2.2. The savings in costs from producing different quantities :

6.3. Differences in conditions and terms of sale.

Where you wish to claim an allowance for differences in conditions and terms of sale,indicate;

6.3.1. The nature of difference :

6.3.2. Its effect on your costs :

6.3.3. Its effect on the value of the product :