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PROTECTIVE TRADE PRACTICES IN ISRAEL

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The curtain rises. The time: the dawn of the 1990s. The actors are cabinet ministers and Knesset members; they take their places, one after another, on the Knesset rostrum. A bill for the extension of the Emergency Regulations (Compulsory Payments) 5750-1989 is being debated in its first reading.¹

Scene 1

Chairman Shevah Weiss: Knesset Members! We are now moving to the next item on the agenda: the bill for extending the validity of the Emergency Regulations (Compulsory Payments) 5750-1989 in first reading. I call upon the minister of industry and trade to bring this bill before us. Please, Mr. Minister.

Minister of Industry and Trade Ariel Sharon: Mr. Chairman, Honorable Knesset, the Emergency Regulations (Compulsory Payments) 5718-1958, which we will refer to as the regulations, are due to expire on December 31, 1989. The regulations are extended from time to time and were last extended in March 1989. The Special Duties Bill 5748-1987, designed to replace these regulations, has passed its first reading and is currently under discussion in the Knesset Finance Committee.

Since the committee will presumably take plenty of time to discuss the bill, and regulations need to be put into effect in the meantime, I propose extending them by six months, which is to say until June 30, 1990....By virtue of these regulations, the ministers of industry and trade, energy and agriculture enact orders imposing duties on those holding inventories of subsidized products, and also on fuel, on the day their prices are raised. Also by virtue of these regulations, import and export duties are imposed on various products, as well as duties for the promotion of research and professional manpower in the various industrial sectors....

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Scene 2

Avraham Poraz (Centrist Movement–Shinui): Knesset members! I am not one of those who maintain that all customs duties and all duties should be lifted and totally free imports permitted. However, I do think that what is going on today in Israel is a positive scandal. We mean well. Our intention is to protect Israeli products against rival imports, prevent unemployment and so forth. But the result is that, in very many instances...we maintain failing enterprises, whose existence is not justified and which will ultimately fail...It is the Israeli consumer, meanwhile, who is being forced to pay high, indeed exorbitant prices for local produce, because, in fact, competing imports are not being permitted.

Another body that is engaged in such activities is the Standards Institution of Israel...which sets, for example, a very stringent standard for carpets, and it imposes that standard with full force upon importers, but does not impose it on local manufacturers. So they claim.

Nor is there any reason to require every fork and knife imported from abroad to bear the stamp of *Made in* – giving the name of the country of manufacture. The manufacturers themselves do not use any such stamp. This, too, is designed to prevent imports.

Shoshana Arbeli Almozalino (Labour Alignment): ...I congratulate the minister of industry and trade who sees to it that these principles are upheld in practice, and who, in certain areas, protects Israeli produce, while imposing duties on imports. Why not? It is our duty to do this...Let us continue to maintain this very minuscule fraction of protection of Israeli produce. And gradually there will be further exposure and rationalization in industry, enabling it to compete in international markets.

Scene 3

Minister of Industry and Trade Ariel Sharon: ...The Standards Institution – is one of our last remaining tools, as it is in the hands of all other countries. What are you so upset about? Are different standards being applied to imported products and local products?

Avraham Poraz: (Centrist Movement–Shinui): Local standards are not being enforced....

Minister of Industry and Trade Ariel Sharon: ...I would like to refer to the matter that has so deeply shocked MK Poraz – the requirement that every item of cutlery be marked to show where it was manufactured. We have no problem competing with cutlery manufactured in Europe or the United States...but when this product is manufactured in Bangkok or Hong-Kong or Indonesia or Taiwan, where the cost of labour amounts to one fifth of the cost in Israel....

Heckler: [Inaudible]

Minister of Industry and Trade Ariel Sharon: All right, please delete Hong-Kong, for the sake of accuracy....One of the agricultural communities I have lived in, which has been in existence since 1942, namely Nir Am, with a population of 320, not very many people live there....Do you even imagine that I would permit the plant there to be closed down, when what is needed is that every fork, knife, teaspoon — and if there is any other utensil I will insist that it, too, be marked — state where it was manufactured? I will insist not only that it state where it was manufactured, but also that every utensil bear that inscription in the Hebrew language.

Yair Tzaban (Mapam): In Rashi script [a semi-cursive font commonly used by printers to distinguish Talmudic and Biblical commentaries from the main body of the text].

Minister of Industry and Trade Ariel Sharon: Were it within my power, I would also require vocalization marks on the script.

Ora Namir (Labour Alignment): And we will assist you, against Poraz and against all the various [Danny] Gillerman types.

Minister of Industry and Trade Ariel Sharon: I thank you.

Avraham Poraz: (Centrist Movement–Shinui): The Likud claims to be a liberal party. This is a Bolshevik party....

Ora Namir (Labour Alignment): [Inaudible]

Minister of Industry and Trade Ariel Sharon: There is no question here of Alignment or Likud. These bodies strongly resemble one another, certainly as regards this matter...MK Poraz, you are shouting. But our policy is to stand guard that every fork and teaspoon should be marked as to its provenance.

Ora Namir (Labour Alignment): Very good.

Concluding Scene

Chairman M. Wirshovsky: Members of Knesset, we are about to vote. Who is in favor of sending the bill submitted by the minister of industry and trade to a committee designated by the Knesset Committee? Kindly raise your hands.

In favor of the motion to refer the bill to committee:	23
Against:	1
Abstained:	0

The motion to refer the bill for the Extension of the Emergency Regulations (Compulsory Payments) 1989 for discussion by a committee to be designated by the Knesset Committee has been passed.

No, this was not part of a play, or an excerpt from a film script. These exchanges are taken from the Knesset *Protocols*, 12th Knesset, 2d sess., vol. 115, pp. 1160–1167. The Israeli government's policy regarding the economy in general and imports in particular has never been a matter of controversy. All parties voiced support for the twisted argument that Israel needed to institute protection against competing imports and they still do.

Ten years after these scenes, such discussions were still taking place in Israel. For example, on March 5, 2001, the Knesset Finance Committee debated the size of a duty to be imposed on the importing of oils and oilcakes, in order to protect local produce.²

Government policy remains unchanged. The Israeli government of the twenty-first century continues to protect local Israeli produce. It is true that, these days, the government can no longer do as much to protect local produce as it used to (Ministry of Industry and Trade Director General Reuven Horesh says: “In principle, it is the policy of the Israeli government not to impose duties....”³) but at the same time, some Knesset members and government representatives are still attempting, by means of the Trade Duties Law, to protect local produce.

This *Policy Studies* consists of three sections. The first section deals with the trade policies of Israeli governments over the years. The second section is a general review of all the tools provided for restricting imports and examines the use made of those tools for preventing imports. The third section deals with the plywood industry and examines the use made of import restrictions and the damage inflicted on the Israeli consumer. The study concludes with a series of recommendations for reforming import-prevention policy.

The Import Policy of the Governments of Israel

From its very inception, Israel adopted a policy of import restriction. This restriction initially derived from ostensibly economic causes. The policy, however, was customarily applied over the years as a tool to restrict imports and to protect local produce and prevent competition.⁴ On first being established, Israel faced social, political and economic problems. A foreign currency shortage was one of the main economic problems.⁵ Accordingly, a move to restrict imports, which would mean preventing the outflow of foreign currency from the country, was perceived by the government as a sensible measure. At that time, Israel prohibited the importing of goods unless special approvals had been issued. Some importers were able to obtain import licenses only if they financed the imports from foreign currency reserves already at their disposal.⁶

During the fifties, customs restrictions were substituted for quotas. Tariffs were used as an auxiliary measure, where a particular import was nonetheless admitted; the tariffs were not Israel’s main means of protection. In 1955 economic policy focused on lowering administrative tariffs on products not competing with local manufacture. As for licensing, the tendency was to grant import licenses to companies that were also exporting.⁷

In the early sixties, import quotas were in effect on 40 percent of total imports. Such quotas applied to 93 percent of the imports of products competing with local manufacture. In 1962, the government adopted a new economic policy, taking the view that effective protection should be removed from local industry and favoring a shift from the quota method to the customs tariff method. Friction between then Minister of Industry and Trade Pinchas Sapir and Minister of Finance Levy Eshkol, who later became prime minister, who held widely differing views of this new policy, made changes very slow to occur. The result was that an assessment had to be made regarding each product as to what level of tariff would provide local manufacturers with the same degree of protection as the quota.⁸

By 1970, 90 percent of imported goods were no longer under quantitative quotas but they were subject to high customs duties.⁹ As the result of a trade agreement between Israel and the

European Common Market, which came into force in the mid-seventies, customs tariffs began to be scaled down (a trend that continued until 1989). In 1982, a trade agreement was signed with the United States prohibiting all import quotas and also calling for a reduction of customs duties.¹⁰

Customs duties were not the only means used for restricting imports. As tariffs were scaled down, extensive use was made of non-tariff barriers (NTB) including import licenses and import quotas. Estimates are that in other countries some 50 percent of import restrictions take the form of NTB.¹¹

Examples of this practice in Israel include standardization for protective purposes in the guise of consumer protection. Use was also made, mainly during the 1980s, of a percentage quota increment (PQI), a unique Israeli method.¹² Since Israel had signed trade agreements with the U.S. prohibiting discrimination against imports by means of customs tariffs, the PQI method was invented, designed to raise tariff levels indirectly. Under the PQI method, the state hindered imports by artificially raising the value of certain imported products, thus collecting customs duties not only on the real value but also on the artificial value. Today this method is used infrequently. The PQI was imposed only on imported products and not on local industrial products.¹³

In tandem with the use of the PQI import licenses were renewed. Israel imposed quotas on imports from Asian countries with which Israel had no trade agreements. Over 75 percent of imports from Asia were subject to licensing.¹⁴

In 1991 a decision was made to expose the Israeli economy to imports from Third World countries. One of the reasons for this was the high rate of inflation in Israel at that time. In the opinion of then Minister of Justice Dan Meridor, who also chaired the Exposure Committee, the solution to unemployment was to renew economic growth, and that would happen only if inflation declined and manufacturing systems underwent a rationalization process enabling them to compete in international trade as well as the domestic market. The exposure policy would result in a higher level of competition in the economy and a drop in prices. In addition, Meridor said: "Artificially protecting local output operates in the very opposite direction, and consequently, actually has an adverse effect on growth, preventing the unemployment problem from being resolved and increasing the distress of the unemployed."¹⁵

The decision to loosen restrictions on imports was facilitated when Moshe Nissim replaced then Minister of Industry and Trade Ariel Sharon, while Yitzhak Modai was serving as the minister of finance, with Dan Meridor (who later became minister of finance) heading the Exposure Committee. These three politicians were, relatively speaking for Israel, inclined towards markets; which is to say they were less firmly committed to statism than other politicians.

In 1991 import licenses were lifted from thousands of products, constituting some 80 percent of commercial imports, and were replaced by customs tariffs. The process, in this instance, was identical with the exposure process in the U.S. In Israel, the ultimate objective was

not to bring the protection level down to zero. It was to establish different target levels for each type of goods: raw materials, investment products and consumer goods. Simultaneously, following exposure to imports from Third World countries, the government decided on a significant hike in customs tariffs with a view to protecting local industry.¹⁶

Table 1
Sample Customs Tariffs 1991
(the year of “exposure” to imports from Third World countries)

Product	Existing Tariff	Planned Amended Tariff	Protected Local Industry
Home air conditioners	10.5%	45%	Tadiran, Elco, Amcor
Emergency lights	18%	50%	Tadiran
Irrigation sprinklers	14%	50%	Tadiran
Chinaware	16%	28%	Naaman
Porcelain dishes	28%	28% (but not less than NIS 3 per unit)	Carmilan, Naaman
Ceramics	28%	28% (but not less than NIS 4 per unit)	Carmilan, Naaman
Mayonnaise	10%	30%	Telma, Osem
Plywood	16%	50%	Plywood Industries, Ashkelon Plywood
Fiber-wood	12%	25%	Luhot HaGalil, Plywood Industries

Source: *Hadashot* [newspaper], August 26, 1991.

Following the exposure of the economy to competition from these other countries, Israel was forced to compete with cheap imports. Competing with local industry, these imports forced the domestic market to reduce prices and sharpen its competitive edge.¹⁷ The upshot was a government decision to enact the Trade Duties Law in 1991, which included an Antidumping Law. It permitted the imposition of a “dumping duty” on goods imported at less than the selling price in the country of origin, a “safety duty” in case of injury to local industry and an “equalization duty” imposed when a product was subsidized in its country of origin.¹⁸

So far, I have presented the economic background and the use made of tariff and non-tariff barriers. Let us now look at these tools and discover how Israel made use of each of them in order to prevent imports.

Import Licenses

Import licenses have been a popular restrictive tool ever since Israel was established. In 1939 during the British Mandate an “Import Licenses Grant Order” was issued. This order, which is still in force, was used to prohibit imports without import licenses in the early years of statehood.

Originally, import licenses were used in order to preserve foreign currency reserves while increasing imports. It was assumed a higher effective exchange rate for foreign investors and Israelis holding money overseas would bring more money to Israel through the importation of commodities in short supply.¹⁹ Another objective was to enable a certain amount of imports of luxury goods, also at a higher effective rate of exchange.²⁰

In addition to these considerations, however, the main one was to protect local industry. Licenses were granted in accordance with the domestic market situation, depending on the capability of local output to meet market demand. Agriculture was one of the sectors afforded the highest protection, yet permission was given for the import of seeds because Israel was unable to manufacture seeds in the requisite quantity at reasonable prices.²¹

During the 1960s, companies were only permitted to import by means of licenses. A company that obtained a license many years earlier could reinforce its position as an exclusive importer, and was thus able to prevent competitors from entering the market. The practice whereby only one importer was awarded an import license gave rise to the existence of sole importers in various import sectors such as electric products and motor vehicles.²² Israel did not legislate any strong antitrust laws, perhaps because legislators were unaware that antitrust legislation does not encourage competition but the reverse.

The Free Import Law-1977 enacted in 1978 was the brainchild of Minister of Industry and Trade and Tourism Yigal Hurwitz.²³ Under this law, a general import license was issued for all goods being imported to Israel other than some listed in a first addendum to the law, which could only be imported under special license. For these restricted goods the competent authority was empowered to either refuse a license or to render such license conditional upon various restrictions such as the quantity of goods that might be imported, the place of manufacture of the merchandise, or any other condition it might deem fit to impose; all with the approval of the director of customs or a particular relevant authority.²⁴ In other words, political considerations entered into whether a license was granted for such items and, given the fact that Israel supported the protection of local industry, this tool was undoubtedly wielded for other than strictly economic reasons.

In the 1980s extensive use was again made of licensing to limit imports. This occurred as a result of trade accords with the U.S. and other countries, which forbade use of tariffs to limit imports. Table 2 shows the rise in the use of licenses after tariffs were forbidden.

In September 1991, protection by means of licensing was reduced, and customs tariffs were brought into line with the protective customs duty policy. Licensing restrictions put in place for protective purposes were lifted on 1,882 industrial items and nearly 600 items that had not been imported previously.²⁵

Table 2
Percentage of Items Limited by Licensing Requirements

Item	1980	1987
Oils	38.5	55.8
Food	68.9	89.6
Wood products	5.6	15.6
Paper	3.2	17.7
Textile and clothing	5.7	22.8
Footwear	0	12.5
Vehicles and aircraft	56.3	71.8
Miscellaneous	7.4	20
Total	15.5	24.7

Source: Nadav Halevy, "General Survey: The Protection and Exposure of Israeli Industry," in *Import Policy and Israeli Industrial Exposure*, ed. Nadav Halevy (Jerusalem: Falk Institute, Hebrew University, 1994), p. 3 [Hebrew]. Halevy is quoting a working paper by Tzippi Gal-Yam, then at the Bank of Israel's Research Department.

The use of administrative barriers to imports, over many years, impacted upon the very structure of Israel's import sector. To begin with, the entire economy is centralized. Thus local producers are often monopolies and often operate with state subsidies or protection. Import policy has had several effects:

1. Import quotas limited the number of potential importers. Permission to import was often granted to those who were already importing the product. Thus new competitors were blocked. This is to say, the effect of non-market based economics encourages more of the same.
2. Prohibition of imports, or imports allowed only by allotted licenses, protected local industry. This further limited the number of importers. This was especially true in textiles, garments, steel and wood products. The number of goods was limited by these policies and so was competition.
3. Discrimination against imports, under the rubric of consumer protection in, for instance, household electronic goods, and the awarding of a limited number of import licenses, limited competition and the number of importers to the point that importers became sole importers. (In 1990, the Ministry of Industry and Trade's practices were found by Israeli courts to be illegal.)²⁶

The very requirement of obtaining a license may itself have reduced competition. Large importers, who also develop contacts with the licensing authorities, will find it easier to obtain new licenses.

4. Standards and product marking, imposed on imports, limited the number of producers capable of meeting the standards or fulfilling the product-marking requirements. There are thus fewer importers.

In the past, importers of household electronic goods, for instance, were required to show the Standards Institution original documents from the foreign producer proving that the product met the standards that were set. This especially worked to prevent imports at speculative prices.

The obligation to mark products in Hebrew before they arrived in Israel also limited the number of possible importers. A foreign producer would have to refigure his entire line of production to meet this obligation. This, too, gives large importers an advantage and rules out opportunities to import goods at speculative prices for short periods.

5. Israel also used consumer protection as an excuse to require that importers guarantee servicing of their products, as for instance, VCRs, refrigerators, washing machines, cars, and so forth.²⁷

In the 1960s, import licenses for cars and electronic goods were granted only to those who had laboratories in Israel for their repair. Importers were also required to provide letters from the manufacturer promising to provide these importers with spare parts for seven years. The requirement that importers provide service and maintain a supply of spare parts and/or laboratories, further limited the number of importers.

The overseas manufacturer perceived centralization as operating to his advantage. A manufacturer wishing to sell a product in a foreign country has a number of options. The first is to set up a subsidiary company or branch in the target country. If he chooses this option, then economically speaking all the accrued profits belong to the manufacturer. A second option is to sell to a number of local importers. A third is to sell through the intermediary of a sole importer. There are significant differences between the various methods, since, in the first case, the manufacturer has either a monopoly in the field or at least in his product line, and will obviously demand a monopolistic price. In the third, and more serious case, in addition to the manufacturer holding a monopoly vis-à-vis the importer, the importer holds a monopoly vis-à-vis its consumers. Thus consumers end up paying the high prices of two monopolies.

In addition to the considerations weighing on the overseas manufacturer, the Israeli government's trade policy, namely the use of import licenses and standardization, was also influential. When the state was first established, imports were permitted only by means of import licenses, so that imports could be controlled and kept within strict limits. In practice, this policy created import monopolies. Studies conducted in Israel found the "sole importer" phenomenon occurring with high frequency among the products examined, with severe implications. The existence of sole importers not only does not raise the level of competition, it actually increases centralization, thus causing waste and inefficiency. Firms facing no competition feel less of a need to rationalize and their choice of technology is less than optimal.²⁸

The above explains how importers became sole importers, and why these were often large importers or large companies. The local producer of a particular product was often the sole importer as well. A local producer who already had a laboratory designed to service a particular item had an advantage over someone who did not. A local producer, especially a local monopoly, had this distinct advantage, as well as others relating to servicing, contacts for obtaining

licensing, proof of future service, supplies and spare parts, contacts with foreign companies producing the same item or dealing in the same raw materials used locally, and even in the use of Hebrew.

These trends can be seen in several industries. Neshet, for example, is both the local monopoly producer of cement and until recently, the sole importer. The government of Israel has always given Neshet special protection from imports, in addition to state subsidies. The requirement to mark sacks of cement in Hebrew eliminated the potential for imports of small amounts of cement. Foreign cement must meet unique Israeli standards to be allowed into the country. These standards were set by the standards boards ridden with conflicts of interest, i.e., direct involvement by Neshet. Further, the Histadrut labor union made life difficult if not impossible for potential competitors. Eventually, only Neshet remained as a local producer or major importer.²⁹

Other examples are the Israeli oil refineries and water monopoly. The Histadrut union, which includes the employees of these companies as well as the employees of Israeli ports, effectively blocked the importation of drilling equipment for a private water well in the Golan in order to preserve the Mekorot (government) water monopoly.³⁰ The Haifa Oil Refinery monopoly is the only institution that can import serious amounts of oil via the ports, even though, technically, there is no law against importing oil.³¹ In the food sector, Froumine, Osem and Vita are local manufacturers importing a large portion of the products they also manufacture locally.

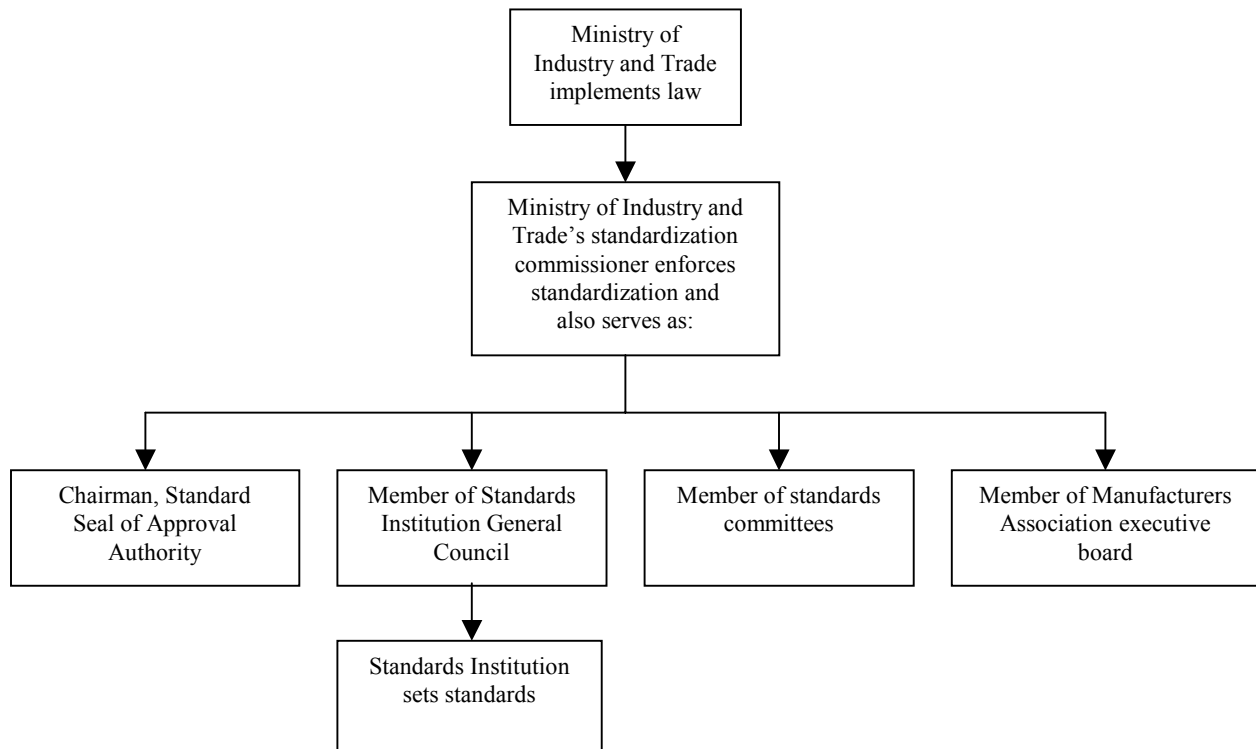
Ultimately, the three Big B's: big government, big business and big labor, operated in tandem and over the years to ensure that they would maintain control over their respective sectors. Their incestuous relationship in Israel — the Histadrut essentially controlled all three for many years, by being the labor union, the owner of industry and the elected and appointed officials of government — thus led to domestic state or state-backed monopolies and then protected these monopolies from competition, whether domestic or foreign. Manufacturers became monopolies, then importers, then sole importers of the very products they produced domestically.

Standardization

The purpose of setting standards for the various attributes of a product is “to ensure an appropriate level of product quality and security and prevent health hazards to the consumer and ecological damages.”³² The Standards Law 5713-1953 regulates standardization in Israel. The ministry in charge of standardization is the Ministry of Industry and Trade. The Standards Institution is a statutory authority attached to the Ministry of Industry and Trade and is, by law, the only body entitled to set an Israeli standard.³³ It is the only approved institute for carrying out tests, and receives its payment out of the state budget.

Figure 1

**The Ministry of Industry and Trade's Authority
Re: Standards Institution**



Source: Based on State Comptroller, *State Comptroller's Report 42* (Jerusalem: State Comptroller's Office, 1991), p. 701 [Hebrew].

The Standards Institution is an external government office authorized to set standards. The minister of industry and trade or any other relevant ministry obtain testing services from the Institution, which takes samples of commodities for examination.³⁴ Under the terms of an agreement renewed in 1987, the Institution examines commodities in accordance with a work plan given to it by the Ministry of Industry and Trade. The Ministry of Industry and Trade pays the Institution for its examinations according to a price list, but the ministry is entitled to discounts of 10-25 percent in many instances. However, the State Comptroller indicates that "...the commissioner made no use at all of his option of obtaining discounts regarding serial examinations, even though a large number of the commodities that the Institution examined...were taken for examination in a volume sufficient to warrant such discounts...."³⁵

Israel has two types of standards: an "Official Israeli Standard" and a "Voluntary Israeli Standard." In the past, it was obligatory for every imported product to have both an official standard and an "Israeli standard" (which is currently called the Voluntary Israeli Standard). Today, only an official standard is obligatory, while an Israeli standard is not. The process for setting both

types of standards is identical, with the standardization committee of the Standards Institution preparing them in accordance with certain technical rules and definitions.³⁶ The only difference between the two types of standards is that the minister of industry and trade declares the Voluntary Israeli Standard to be an official standard. If the minister of industry and trade decides to adopt the Voluntary Israeli Standard and make it official, then it becomes binding upon all manufacturers and importers of the products concerned, which may henceforth neither be manufactured nor imported unless they bear an official standard.³⁷

If the minister wishes to declare a standard official/binding, he must act in accordance with the principles prescribed by law, as established by the Knesset in January 1998. The Standards Law was amended to include the following conditions:³⁸

1. The safeguarding of public health.
2. The safeguarding of public safety.
3. The protection of the environment.
4. The supply of information, where no information or alternative mechanism exists for giving the consumer protection.
5. Prevention of significant economic damage, liable to be occasioned to the consumer, as a result of the use of substances or products serving for construction, whether visible or concealed.

Products required to undergo examination for official standards are both imported products and those manufactured in Israel. The Standards Institution is the sole body empowered to release imported merchandise and no merchandise may be released without its approval.³⁹

Today, Israel has 2,800 voluntary and official standards. Of these, 300 are official standards. Standardization is the province of central standardization committees in different sectors. Represented on these committees are both consumers and manufacturers, along with the representatives of the Ministry of Industry and Trade and other government ministries. Institution employees serve as committee coordinators, and expert opinions are also required. The Institution's supervisory activities are carried out on the basis of information received from the manufacturers, the Manufacturers Association and public complaints.⁴⁰

The standard-setting process is:

For *new standards*, the standardization committee seeks an international standard.⁴¹ If a scanning of international standards fails to produce an identical product and standard, or if the standard is not high enough, the committee will search European or U.S. standards.⁴² For *old Israeli standards* that already exist, some remain unchanged, and some of the standards have been revised. Since an official standard is actually a Voluntary Israeli Standard, the standard-setting process is identical.

In April 1990, the Ministry of Industry and Trade director general appointed a special team for standardization affairs. The team, headed by the deputy director of the Ministry of Industry and Trade's Foreign Trade Authority, included representatives of the Standards Institution, the Ministry of Foreign Affairs and the Manufacturers Association. A committee was

formed for the purpose of examining the various aspects of future standards negotiations with the European Community on standardization matters. Various resolutions were adopted relating to the development of product quality, the compliance of the Standards Institution laboratories with a series of European standards, and so forth. One stipulation was that Israeli official and voluntary standards be brought in line with international and European standards.⁴³

By 2001, more than a decade after the decision was taken to adopt international standards (including those of the U.S. and Europe), not all official (or voluntary) Israeli standards have been modified to conform to international standards. According to Michael Wolf, director of standardization at the Standards Institution, this is the result of a shortage of staff caused by a budget problem.

International Attitudes to Standardization

Various European countries are associated in the European Community.⁴⁴ In 1958, these states came together to form the European Community. The year before, in 1957, a convention was signed in Rome (known as the Rome Convention), by six European countries: France, Italy, West Germany, the Netherlands, Belgium and Luxembourg.⁴⁵ The convention provided that the signatory countries would together create the conditions enabling the free passage between them of people, capital, goods and services, free of bureaucratic processes. The main objective of the union was to create a customs-free common market among member countries. But the lifting of the customs barriers between the countries gave rise to a situation in which the use of non-tariff protective methods increased. In most European Community member countries, the use of technical standardization became increasingly widespread, and the aim of creating a common market was not realized.⁴⁶

Following the crisis of the seventies in Europe's economy, attended by a rapid rise in the economic power of Far Eastern countries, European countries came to realize that without unification and rationalization they could not cope with the competition in international trade.⁴⁷ In 1985, a conference was held at Milan, at which the European Community member countries adopted the so-called "White Paper" with its 279 directives, listing proposals that would enable the Community to rationalize and compete. These proposals were designed to create coordination between the member countries of the European Union. Some of the proposals dealt with standards relating to security and health, some to packaging and marking standards, and others to standards for services, and so forth.

There was widespread recognition of the importance of waiving barriers deriving from standardization. Member countries took various steps in an attempt to create a common basis for standardization. Even though numerous difficulties had to be overcome, and although the decision-making process was slow, EU members managed to find common ground and resolved to draw a distinction between *binding* requirements concerning safety and protection of the environment, and requirements established in each individual country. In practice, EU members found that the use of agreed-upon international standards lowered import restrictions. This boosted competition and rationalization among the EU member states.

Even though the notion of free trade was said to be at variance with “national” interests (meaning protection of local produce), the European Community understood the importance of economic growth and consumer welfare (to be achieved by lowering product prices) and rationalization, realizing that the key to economic growth and to the growth of nations distinguished from the growth of governments was to expose national economies to imports and also to prevent red tape.⁴⁸

In 1983, Israel resolved to join the General Agreement on Tariffs and Trade (GATT).⁴⁹ A clause of GATT, known as the “standards code,” prohibits the use of standards to prevent imports. Israel, even though it signed GATT, did not, in that year, subscribe to the standards code. In 1989, Israel discovered that unless it signed the standards code, it could not reach trade arrangements with the European Community, and Israel accordingly signed the standards code in 1990.⁵⁰

Standardization Abuse

The State Comptroller writes that: “...not a few Israeli standards, all established by the standardization committees and the central committees of the Standards Institution, in accordance with the rules prescribed for setting standards, are liable to be deemed unreasonable by the member countries of the Community...”⁵¹

Examples serving to illustrate the scope of abuse of standardization were found to cover, and to a lesser extent still do cover, a broad range of areas, from consumer goods to food. Here are some examples:

The “dramatic” introduction to this *Policy Studies* reflects the import-restriction policy of the government of Israel. In the nineties, the Knesset reviewed the matter of protecting local produce. One subject of debate was the use of standards. MK Poraz noted the fact that the Israeli government was protecting local produce by means of standards, citing, among other things, the example of cutlery.⁵² Until the 1990s, suppliers were under an obligation to denote, alongside the name of the manufacturer, also the name of the country of origin. In the nineties however, the ministry decided that these two markings were not enough and the standard must be modified. Thus, for example, instead of the mere inscription of “Germany,” the utensil must be marked “Made in Germany.” The reason for this became apparent in Knesset deliberations.⁵³ Then Minister of Industry and Trade Ariel Sharon said that there was a factory near his home in Kibbutz Nir Am where cutlery was manufactured and maintained that, unless the additional marking was introduced, the factory would shut down. MK Yair Tzaban dryly remarked that Rashi script should be used, and Sharon retorted that if he could, he would insist that vocalization marks be used.⁵⁴

The carpet industry provides a further example of the Ministry of Industry and Trade’s whims. Under the terms of the agreements between Israel and the Common Market, the decision was made to annul duties on imported carpets. Once this was done, there were two options open to local manufacturers and the government: Either manufacture less expensive, better carpets, or

hinder imports. Sure enough, government officials in charge of this sector elected to impose a more stringent standard to hinder imports. Carpets from abroad had to be fireproof.⁵⁵

The State Comptroller noted another law that Israel was using in order to restrict imports, the Law for the Control of Commodities and Services 1975. This law contained a provision whereby products must be marked before they enter Israel. The State Comptroller says of this provision: "...The obligation to mark products in Hebrew while still in another country constitutes a non-tariff restriction that makes them difficult to import, since it requires that goods destined for Israel be treated separately, thus making them more expensive. Therefore, the law should permit the products to be marked in Israel, in such a way that the consumer will have all the requisite information on the product before purchasing it."⁵⁶

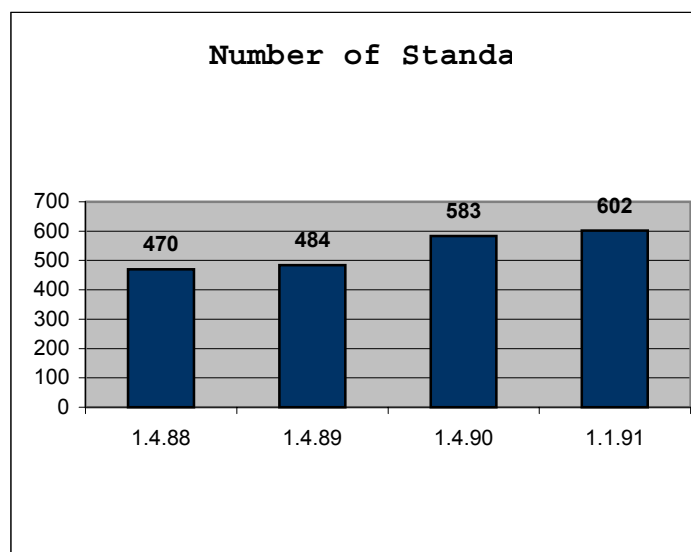
At that time, more comprehensive examinations were also being made of imported carpets. Where previously one examination every year or two had sufficed, every shipment was now examined. Importers claimed that these examinations were not being conducted on carpets manufactured in Israel. One importer examined Israeli-manufactured carpets and found them to diverge widely from the standard. In a meeting with the standardization commissioner at the Ministry of Industry and Trade, at which importers demanded that examinations apply equally to imports and to local industry, the commissioner said: "There are practical difficulties in examining the compliance of manufacturers with the standard." But evidently no such difficulties existed regarding importers, and the Standards Institution decided that, without approval, no goods would be released to them.⁵⁷

Another example relates to edible products where the official Israeli standard for wine requires that any product not bearing kosher certification from the Israeli Chief Rabbinate must be marked "non-kosher," citing the sensitivity of the religious public as the underlying reason.⁵⁸ This seems a surprising and illogical standard, since the greater part of the religious public does not purchase wine with which non-Jews have come in contact. And if overseas kosher wine is, in fact, purchased, its label bears a known kosher seal meeting the needs of the religious public. Therefore, the words "non-kosher" on the label will be of no use to the religious public, which does not purchase the product in any case, but will serve to make the product more expensive for consumers who do purchase it.

Another product Israel protected from imports was tea. Israel set a standard prohibiting the importing of teabags with metal staples, which are in worldwide use.⁵⁹ The government cited concern for public health as the reason for this prohibition. The High Court of Justice had every reason for finding that: "Under the circumstances, the petitioner [the Wissotzky tea company] laid no factual foundation for the argument that the prohibition against stapling teabags was intended to protect the health of consumers,"⁶⁰ whereas, in fact, the standard was designed to protect the Israeli Wissotzky tea monopoly.

Figure 2 shows the increase in the setting of standards by the Standards Institution, even though Israel had signed the GATT standard code. In January 1991, there were 1,600 Israeli standards in force. The commissioner declared 602 of them to be official standards.

Figure 2



Source: Based on State Comptroller, *Report of the State Comptroller 42* (Jerusalem: State Comptroller, 1991), pp. 702-703 [Hebrew].

The large increase seen in figure 2 for the period 1989-1990 could have derived from several causes. The U.S. signed trade agreements with Israel in 1985. In the framework of these agreements, customs tariffs were to be scaled down to zero by 1995. Israel had to cope with imports that were selling more cheaply than their Israeli manufactured counterparts. Since no customs duty could be imposed, and current tariffs could not be raised, Israel sought a different type of restriction: standards. It set different types of standards, an "official" standard and an "Israeli" standard. At that time, as we have explained, Israeli standards were still obligatory for imported goods but not for locally manufactured goods. In 1989-1990, the U.S. formulated a requirement that there must be no discrimination by means of standardization and that, therefore, the status of goods manufactured in Israel must be brought into line with that of imported goods.⁶¹

The exposure of the economy to competition and Israel's signing of trade agreements with the EU as well as the U.S., together with the new policy of exposing the economy to Third World countries, were additional factors that might explain why, in August 1991, the Ministry of Industry and Trade asked the directors of various authorities to examine official standards and to prepare lists of standards whose main purpose was protection of Israeli produce. In October 1991, the director of the Chemicals and Quarries Authority sent in a list of 14 such standards. By 1995, only 7 of them had been abolished. But the Chemicals Quarries Authority was in good shape considering that the Textiles Authority and the Technological Industries Authority never even bothered to prepare the required lists.⁶²

In April 1993, representatives of the Chambers of Commerce Association submitted, at the request of the Ministry of Industry and Trade, a list of over 30 standards which, in their opinion, were restrictive of imports.

In January 1994, a commission appointed by the ministry submitted a list of 32 official standards which it recommended abolishing. By the date of the conclusion of the audit, October 1994, [which is to say, 9-10 months later], not a single standard had been abolished.⁶³

In response to the findings in the *State Comptroller's Report*, in October 1994 the Ministry of Industry and Trade submitted a proposal regarding standardization policy:

...This proposal calls for an examination to be made of all official standards and, by January 1, 1995, an initial screening to be conducted, and a start to be made in abolishing the official status of some of them in accordance with principles to be established. An examination of all clauses of all standards is to be conducted by April 1, 1996.⁶⁴

But even after the proposal was submitted, nothing was done about implementing the decision regarding exposure. This attests to the approach that is delaying the exposure process and injuring the economy.

...From the aforesaid it emerges that even though three years have elapsed since the commencement of exposure, standards designed to protect local produce still remain in effect.⁶⁵

We have seen that Israel makes use of numerous tools in order to protect local produce.

It is important to be aware of what international agreements stipulate, and how other countries are expected to comport themselves in these matters.

General Review of International Agreements

The General Agreement on Tariffs and Trade (GATT) 1947 was signed with the aim of establishing economic cooperation between the member countries, in order to improve their post-war position. Following the signing of the original GATT in 1947, there were another eight rounds of talks, in which various matters were thrashed out and some clauses were amended. In the course of time, the number of countries joining the circle of GATT members increased. One hundred countries took part in the Uruguay round of talks, commencing in 1986, and others sought to join. Israel joined GATT in 1962. The final round of talks that took place in Uruguay concluded in 1994.⁶⁶

The Uruguay talks endowed the agreement with institutional form in the shape of an organization named the World Trade Organization (WTO).

One of the principles incorporated in GATT is that of preferred-nation status, making it obligatory to render benefits to all GATT members and not just to a particular country. Thus, if

tariffs were to be reduced, the reduction must apply to all members. And if a particular protection were to be upheld, this must be done only through customs tariffs. Restrictions by way of discriminatory standardization, internal taxation and so forth were prohibited. The section prohibiting discriminatory standardization also prescribed a standards code.

Apart from that, GATT contains a number of exceptions clauses. One exception relates to the possibility that a country might take protective measures and impose a duty in order to prevent imports from another country. This is allowed if one country exports merchandise to another country at dumping prices (lower than the selling price of that product in its country of origin); then, under GATT, a “dumping duty” or “equalization duty” may be imposed. (An equalization duty is imposed on imported products that are subsidized in their country of origin.)

An emergency “escape” provision is found in clause 19 of the agreement, providing that should a drastic increase take place in the quantity of imports so as to inflict serious damage on local industry, then the import recipient country may raise the tariff, or, if the tariff was already in process of reduction, may freeze the reduction. In this event, the preferred-nation principle determines that the customs increase shall apply to all countries. This tool is rarely used.⁶⁷

GATT assigns great importance to free trade. Its various conditions and clauses discourage the use of restrictive tools. Even where a member state wishes to act restrictively, the agreement emphasizes the implications this will have on all member countries.

In 1975 Israel signed its first trade agreement with the European Community. This agreement provided for a scaling down of tariffs between Israel and Europe, and tariffs were in fact abolished by 1989.⁶⁸ Israel signed a new agreement with the EU in 1995.⁶⁹ Israel and the U.S. signed a free trade agreement that took force in 1985, and provided for the abolition of all tariffs by 1995. In January 1993, a free trade agreement was signed with EFTA,⁷⁰ and bilateral free trade agreements were also signed, taking force in the period 1997-1998, with Turkey, Canada, Poland and Hungary. These agreements, too, called for lowering tariffs.⁷¹

Israel's having signed these agreements in the eighties and nineties caused trade to be diverted from countries not having trade agreements with Israel to those that had. As a result, various restrictions were imposed on imports from East European and Far Eastern countries. These included high tariffs, import licensing requirements, and the establishment of quotas.⁷²

The restrictions imposed on these countries forced importers to abandon them in favor of purchasing goods from countries where prices were relatively higher. The result, the State Comptroller determined, “was to prevent a contribution to the attempt to moderate the price hike, a possible foreign currency savings was prevented, and the competitive capability of Israeli products, for whose manufacture these goods serve as raw materials or interim products, suffered injury, on both the domestic and the export markets.”⁷³

The policies used to block imports are anchored by various laws. We will now look at Israel's import laws.

Import Laws

The relevant law in effect in this country, since British Mandatory times, has been the Import and Export Ordinance Law – New Version. It was on the strength of this Ordinance that the Import Licenses Grant Order was issued in 1939. From that year until 1978, the law remained substantially unchanged.⁷⁴ Under the Import and Export Ordinance, the minister of industry and trade was empowered to determine which goods were allowed to be imported and which were not. Imports into Israel were prohibited unless import licenses had been granted. In 1978, the minister of industry and trade issued the Free Import Order, establishing a different legal position, so that the previous blanket prohibition with its specific exceptions was replaced, permitting all imports to Israel unless expressly prohibited under restrictions and bans. The restrictions are listed in the “Free Import Order Addendum,” specifying which goods may not be imported and which may be imported provided they meet certain conditions or have obtained various specific licenses.

Two salient points should be noted when considering the exposure of the economy to competing imports:

1. International undertakings (GATT, the agreement with the European Community, the Free Trade Zone agreement with the U.S.).
2. Independent policy not bound by any agreements.

Regarding international undertakings, Israel, like other countries, has committed itself under the GATT accords to reduce tariffs. There are specific undertakings, whereby, for every sector, the maximum rate of tariffs that Israel is permitted to impose are specified. Regarding independent policy: In 1991 Israel decided, international undertakings apart, to expose the economy to competing imports from Third World countries.⁷⁵ The exposure, slated to last seven years, was supposed to lower tariffs on imported products to a level of 12 percent on finished goods and 8 percent on raw materials. The program was independent in the sense that it was not contingent on any similar scaling down of tariffs by the countries from which Israel was importing. The reductions found expression in the Customs Tariff Order which set the rate of the reductions, other than in “sensitive” sectors, which were allowed extensions, such as the plywood industry, to which a 12 percent tariff currently applies, even though plywood is a raw material on which the tariff is supposed to be 8 percent.

There are sectors, such as agriculture, in which imports were not permitted. In 1995, a reform was instituted in that sector, with imports being permitted but only by means of import licenses. This change was occasioned by Israel’s signing the GATT agriculture agreements in 1994. In the past, there was a policy of not granting import licenses, other than in times when supply was substantially down and a shortage prevailed. But even then licenses were issued only for limited periods of time and only for certain agricultural produce.⁷⁶ Following the signing of the GATT agriculture agreements, a process of establishing tariffs began, in which the import bans on agricultural products were replaced by high tariffs, with the expectation that these would

be scaled down. The process is far from over and while tariffs are, in fact, being reduced, they are still high.

Trade Duties Law

Under Israeli law, as it stands today, imports cannot be restricted through the use of non-tariff barriers such as import quotas and standardization. As a result of the exposure of the economy to competing imports and the lowering of tariffs, Israel is entitled under international agreements to take measures against unfair imports and to impose, in such cases, duties designed to protect local industry. Three Israeli duties corresponding to duties under international law are the dumping duty, the safety duty and the equalization duty.

In addition, the past two years have yielded an Israeli innovation in the shape of an “import duty.” This device is a customs tariff that bypasses obligations Israel undertook vis-à-vis the U.S. not to impose tariffs, mainly on agricultural produce. Israel’s Free Trade Zone agreements with the U.S. prohibit the imposing of any tariff or duty for the purposes of protecting local produce. To avoid calling it a tariff, this duty amounts to 90 percent of the tariff imposed on Third World countries.

Israel’s Trade Duties Law was enacted on January 1, 1991, following a three-year delay from the time the government issued the law. By and large, Israeli legislation resembles the legislation that exists under the GATT accords. As noted, it incorporates three types of duties: safety, dumping and equalization. The dumping and equalization duties apply to products against which Israel may permissibly defend itself, since they are being imported at unfair prices. The safety duty applies to imports that are not unfair, but with which local industry cannot compete without first redeploying.⁷⁷ The explanatory notes to the Trade Duties Law state that the law conforms to the international conventions to which Israel is a signatory. But an examination of the law shows that portions of the Trade Duties Law are incompatible with international law. As noted, Israel in 1994 signed the GATT accords in the framework of the Uruguay talks. The agreement stipulated that all signatories (Israel, of course, included) must adapt their internal legislation to international legislation in accordance with the agreements. From 1994 to the present, Israeli legislation has not been brought in line with international legislation, as we shall show, in matters of the dumping duty, the equalization duty and the safety duty. This state of affairs gives local manufacturers a tool they can use to block imports.

The equalization duty is imposed in instances in which subsidized goods are exported and sold in another country. The GATT accord permits a duty to be imposed.⁷⁸ Since Israel rarely imposes this duty, this *Policy Studies* focuses now on the other two duties: the safety duty and the dumping duty.

Safety Duty

Section 2(A) (3) of the Trade Duties Law permits the imposition of a safety duty in order to protect local industry from real damage occasioned by competing imports. It is based on Section 19 of GATT, known as the Escape Clause. Imposition of the safety duty permits

assistance to be temporarily rendered to a local industry even if there is nothing wrong with the competing imports. This provision actually constitutes a political tool.

Procedure: GATT

GATT provides for the following procedure to take place before a safety duty is imposed:

1. An examination by an advisory committee.
2. The importer or the foreign manufacturer must be given the opportunity to present counter-arguments.

Procedure: Israel

In Israel, under the Trade Duties Law, sole authority for imposing a safety duty vests in the minister of industry and trade (or other ministers, in certain cases), but no mention is made of any procedure that the minister of industry and trade is obliged to follow. There are instances in which the minister may not impose a safety duty except with the approval of the minister of finance.⁷⁹ Under Israeli law, the minister of industry and trade may impose a safety duty whenever he so wishes, and need serve no warning of his intention to so proceed.⁸⁰ This being so, the imposition of the duty depends on a political rather than a merely professional concern. Local manufacturers generally apply to the minister asking for the duty to be imposed, but the law does not establish any procedure for making such a request, and does not require any supporting evidence to be produced.

Israeli importers have accordingly alleged that the state disregards its international undertakings as per GATT. The Ministry of Industry and Trade therefore resolved, unofficially, to permit importers to present their position before a decision was made to impose a duty. This option, however, is not anchored in any regulation or law, so the next minister of industry and trade may decide otherwise, at his discretion.⁸¹

Procedure: The United States

In the U.S., the professional International Trade Commission (ITC) must determine whether the conditions for imposing a duty have been met, meaning real damage and proof of cause and effect. The ITC is empowered, after obtaining information from the importer/foreign manufacturer, to recommend to the U.S. president that such a duty be imposed. The president decides whether to act on this recommendation.

In Israel there is no mention that the minister of industry and trade needs to conduct an examination of real damage or prove its cause. The only reference to any examination is found in Section 2(A)(3) of the law, which provides only that the minister of industry and trade may impose a safety duty in instances of real damage. Proof of erroneous judgment on the part of the minister of industry and trade has been shown in a number of instances in which appeals against safety duties were lodged with the courts. These include imports of ice cream, shelled almonds from the U.S., and video-camera cases. In these precedent-setting judgments, the courts ruled

that the minister is obliged to conduct an investigation and a factual examination in order to prove the following necessary conditions (the law itself does not require any such examination):

1. Proof of real damage: The damage must be palpable and sufficiently weighty and present so as to affect local industry; abstract, small-scale, marginal or unsubstantial damage does not qualify.
2. Proof of causation: The evaluation of the occurrence must be well anchored in facts and data. It cannot be based on unexamined suppositions. There must be a causal relation between imports and damages.
3. Proof of balance of interests: The need to protect local industry must be weighed against the benefit deriving to the economy from imports.⁸²

The scope of the investigation required by these rulings must be based on the punctilious and methodical collection of data. An expert opinion is sometimes required, and the decision must be bona fide and convincing.

These precedents are important, since they constitute a substitute for proper law. We have thus seen that Israeli law is deficient in matters relating to the safety duty, but that the courts have provided a degree of relief. We will now examine how duties are imposed in Israel.

Antidumping Duty

Goods are considered to have been imported at dumping prices when the price the Israeli importer pays for the goods (“the export price”) is lower than the sale price of the manufacturer overseas at a similar level of trade.⁸³

Antidumping legislation commenced in 1906 in Canada, and the U.S. enacted its law on this matter in 1916. In 1974, there was universal condemnation of dumping, but it was not prohibited. Only in the Canadian round of talks in 1963 was the topic put squarely on the agenda. In 1968 (as part of the Tokyo talks) antidumping measures were approved. In Uruguay the new GATT, also signed by Israel, was completed. It came into force in 1995 with the founding of the World Trade Organization (WTO) and included the issue of dumping.⁸⁴

Israel

The relevant law in Israel is the Trade Duties Law 5751-1991, incorporating sections that deal with a dumping duty and an equalization duty. The Israeli law dealing with dumping and equalization (subsidization) duties reflects the old GATT accords that were in force from the time of the Tokyo talks to the time of the Uruguay talks. When the Uruguay talks ended in 1994, Israel promised to bring Israeli law into line with international dumping and equalization policy. In 1995-1997, professional committees met to discuss the law and prepared an amended version. But even though seven years have passed since Israel committed itself, the law has remained unchanged. Some people argue that the delay in amending the law stems from differences of opinion between the Ministry of Industry and Trade and the Ministry of Finance regarding approval of the duty. Each body wishes to be the one to approve duties.⁸⁵

Israeli law does not include some of the parameters required under international law for the imposition of a dumping duty (as will be shown below).⁸⁶ Dr. Aryeh Reich, adv., currently chairman of the Ministry of Industry and Trade's advisory committee, determined that Israel should proceed in accordance with international agreements and adapt Israeli law to them.⁸⁷ The adoption of international law by the advisory committee is a good interim solution, but since the law is not properly anchored, room remains for decisions that do not conform with international law. In the decisions file of the advisory committee on the subject of polyvinylchloride (PVC), Dr. Reich quoted Chief Justice Aharon Barak: "The object of any law is to realize rather than to oppose international jurisprudence...."⁸⁸ In support of his argument, Dr. Reich also cited Supreme Court Justice Landau: "The Israeli legislative arm is bound to aspire to bring its legislation into line with the principles of international jurisprudence....Israeli law must therefore be so construed as not to create, insofar as possible, any contradiction between itself and the known principles of the law of nations."⁸⁹

Regarding Israeli adaptation to international law, it is worth noting that Chief Justice Barak has explained the standing of international law in his interpretation of legislation: Barak says that, even though international law does not form part of internal legislation, and does not form part of the legislative history of a state's internal justice system, the legislator must nevertheless adapt itself to international law: "It is to be presumed that the purpose of any law is to realize and not to oppose international jurisprudence. Of two possible interpretations regarding an item of legislation, we must choose that interpretation that is most compatible with public international jurisprudence."⁹⁰ According to Barak, this approach is generally accepted in Britain, the U.S., Canada and other countries with a similar legal tradition based on the principle of the rule of law.

The purpose of the Trade Duties Law was to adapt Israeli law to the GATT dumping code, as clearly stated in the law's explanatory notes: "The provisions of the proposed law are consistent with the provisions of the agreement for the application of Section VI of the General Agreement on Tariffs and Trade (GATT), which Israel has joined."⁹¹

The courts not only accept, but also actually require, that Israeli law be adapted to international law, not merely in order to avoid any contradiction between the two, but also to avoid giving rise to a situation in which Israel is exposed to complaints by other nations. Where Israeli law is at variance with international law, countries on whose products a duty has been imposed may file complaints against Israel on the grounds of noncompliance with the law and the abuse of the dumping code. This opens the way to severe reactions such as more stringent restrictions being applied on imports from Israel, or even an increase in tariffs on imports from Israel.

Procedure: GATT 1994

GATT makes no specific reference to who deals with or establishes the dumping duty, but does emphasize that the procedures and the court or administrative commission performing the examination must be separate from those who make the decision.⁹²

Procedure: Israel

The minister of industry and trade appoints a trade duties commissioner who determines whether dumping is taking place. In his examination, the commissioner must compare the generally accepted price and the export price. A dumping duty is imposed given three cumulative conditions:

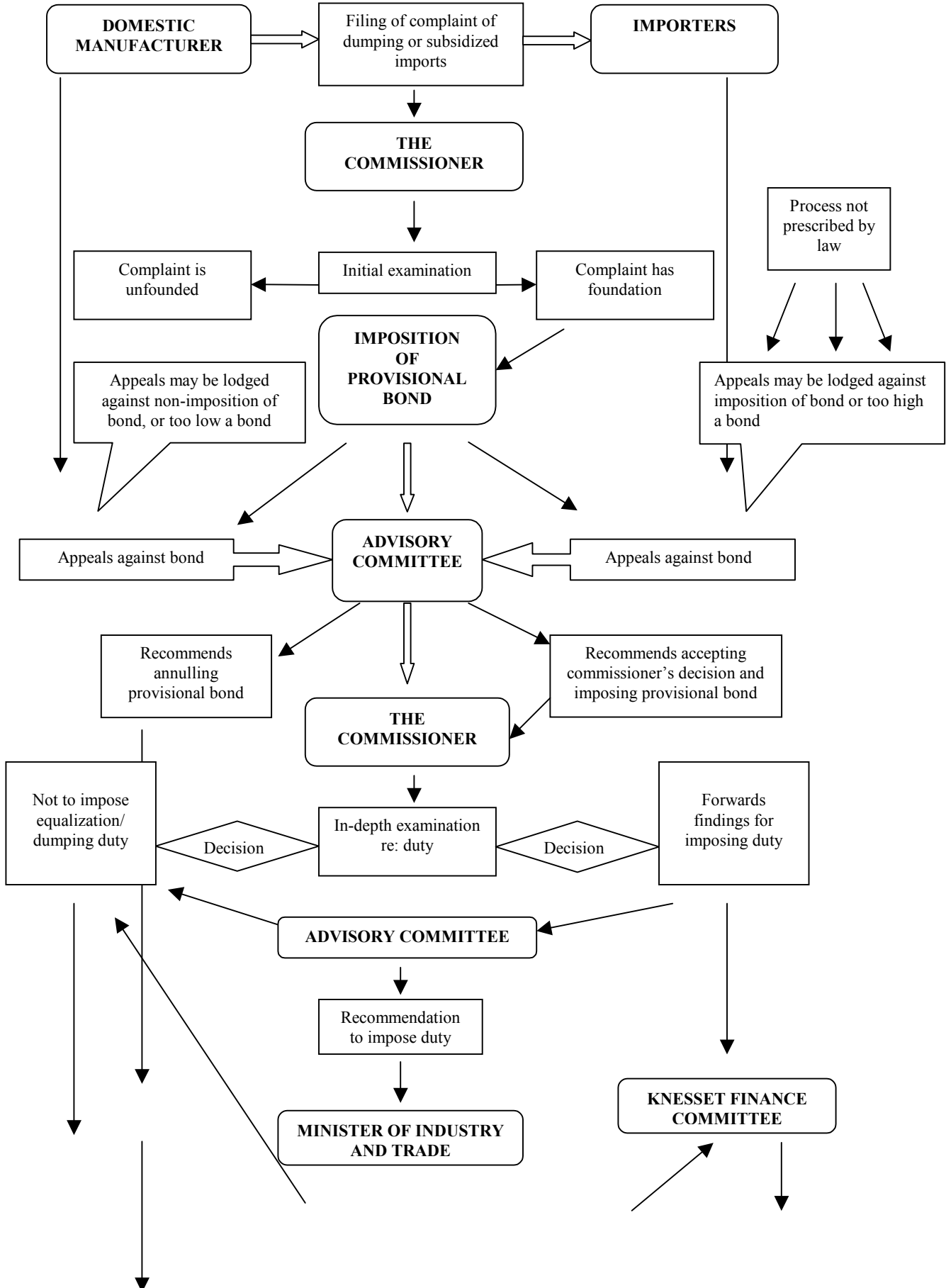
1. Merchandise has been imported at dumping prices.
2. Real damage has been caused to the manufacturing sector as a result of such imports.
3. There exists a causal relation between the dumping and the damage.

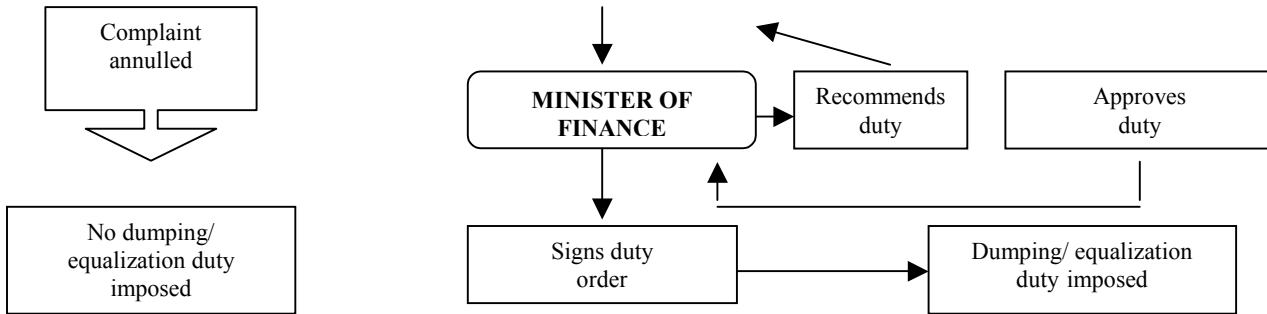
The commissioner appointed by the minister of industry and trade examines whether there exist prima facie grounds for the complaint filed by the local manufacturer. If an initial basis exists for imposing a duty, he will then order that the complaint continue to be processed. If prima facie grounds exist, the commissioner reviews them in light of the three conditions required for imposing a duty, and imposes a provisional bond.⁹³ The commissioner forwards the evidence he has collected to an advisory committee, which studies the material and hears the appeals of the importers and local manufacturers.⁹⁴ The committee forwards its conclusions and recommendations as to whether a dumping/equalization duty should be imposed to the minister of industry and trade who, together with the minister of finance, may accept or reject the recommendations. If the minister of finance does, in fact, approve the imposition of a duty, the order is sent to the Knesset Finance Committee, which confirms the decision, whereupon the minister of finance signs the order and the duty is imposed.⁹⁵

The procedure in Israel for imposing a dumping duty is shown in figure 3 and is reminiscent of something designed by Rube Goldberg.

Even though multiple processes and numerous entities are involved, the middle column of the figure shows that all the entities are governmental/political. (The figure is based on the Trade Duties Law 5751-1991 as well as the Special Duties Bill 5748-1987, and *Bills* 1859, p. 56 [Hebrew].)

Figure 3: Israeli Antidumping Determination



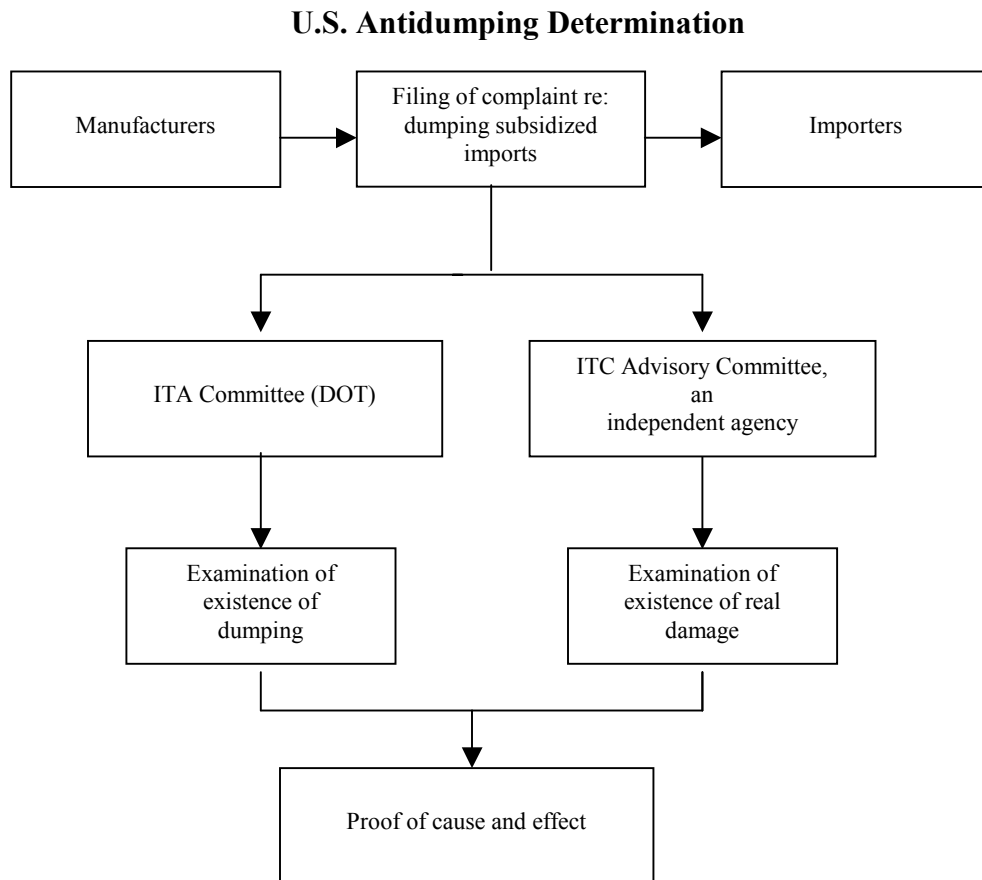


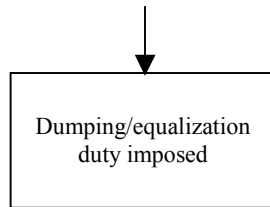
The United States

The U.S. has two different bodies performing the examination, both appointed by Congress. One is responsible for determining whether dumping is taking place. This is the International Trade Administration (ITA) in the Department of Commerce (DOC). The second is the International Trade Commission (ITC), which is the advisory committee and an independent government agency. It has six members, no three of whom may belong to the same political party. The president appoints them and the Senate approves the appointments. Each is appointed for a nine-year term. This commission examines whether any real damage exists.

The bodies handling dumping duties in the U.S. are shown in figure 4.

Figure 4





Source: Based on Talia Einhorn, "Reconciling Israeli Antidumping Law with WTO/GATT International Trade Law Rules," *Israel Law Review*, vol. 32, no. 1 (winter 1998).

Table 3 shows the differences between the U.S. and Israel in the structure and composition of the bodies concerned.

Table 3

A Comparison: Israel and the U.S.

Issue	Israel	United States
Who appoints the examiner/commissioner?	Minister of industry and trade	The president.
Is the appointment subject to approval?	No	Yes, approval by the Senate.
Who investigates dumping?	1. The commissioner 2. An advisory committee	ITA
Who investigates whether real damage exists?	1. The commissioner 2. An advisory committee	The ITC advisory committee, independent governmental agency.
Is investigation of damage kept separate from the question of dumping?	No, the commissioner, followed by the advisory committee, investigates both.	Yes, the ITA investigates the existing of dumping; ITC investigates real damage.
The commissioner	May also be a member of the advisory committee that examines the commissioner's findings.	The president makes the appointment, the Senate confirms it.
Who are the committee members?	1. Three public representatives, one of them the committee chair. 2. Two from the Ministry of Industry and Trade – one of whom may be the commissioner. 3. One from the Ministry of Finance. 4. One from the Ministry of Agriculture. 5. In matters related to another ministry. An employee of the office with which the complaint deals.	Not more than three of the same party.

Sources: Based on Talia Einhorn, "Reconciling Israeli Antidumping Law with WTO/GATT International Trade Law Rules," *Israel Law Review*, vol. 32, no. 1 (winter 1998); *Trade Duties Law* 5751, www/tamas.co.il.

The above table examines the differences between Israel and the U.S. As indicated, the U.S. does have one body handling trade protection, namely ITA. Yet, there is a professional committee, ITC, which is capable of putting the brakes on this protection.⁹⁶ The president, with the approval of the Senate, appoints this committee, thus somewhat tempering any political influence. In Israel, the advisory committee is, in fact, defined as a professional committee, but the way its members are appointed makes it a political committee and thus subject to political pressures. The U.S. ITC professional committee has checks and balances, since the president makes the appointments and the Senate approves them, and the two are not necessarily always from the same party. Under U.S. law, no one party may hold a majority on the commission, whereas in Israel, government bureaucrats have a patent majority. In European countries, until 1995, there was one committee that investigated the existence of dumping and damage. But in 1995, in order to comply with GATT rules, which they had signed, European countries had to

create another separate committee. For some reason, Israel, although a signatory to the GATT rules, has not been made to comply with them.

Israel's Trade Duties Law 5751, section 7(B)(1) states: "A committee member shall not take part in a committee meeting if he has a personal interest in a matter under discussion." Despite this legal provision, not only does a representative of the Ministry of Agriculture, which is dedicated to protecting local agriculture, deal with such matters, but if by chance the product under discussion is unrelated to agriculture, then the farmers' representative is replaced by a representative of the ministry concerned. Thus someone with a vested interest in the matters under discussion *always* takes part in committee meetings and, in any event, state bureaucrats always have a majority. And the government itself is an interested party in any topic that arises, not to mention that the three public representatives are likewise appointed by the ministers concerned.

So far, we have outlined the problematic nature of the safety duty and the dumping duty in Israel, both in terms of process and law.

There is another tool related to the dumping duty, called a provisional bond, which needs to be considered. Provisional bonds are imposed when dumping or subsidized imports (regarding the equalization duty) is suspected. Under the Trade Duties Law, the commissioner may impose a provisional bond, at an estimated rate at his discretion.

Procedure: GATT

International law prescribes a short period of four months for the provisional bond. Under certain circumstances a provisional bond may be imposed for more than four months. The maximum is nine months.⁹⁷

Procedure: Israel

Regarding the provisional bond, the Trade Duties Law provides, in section 28 (C): "If a duty is imposed – the bond will be forfeited as per the Order. If a duty was imposed in an amount lower than the amount of the bond, then the difference is refundable. If no duty is imposed within six months of the issuing of the bond, then the bond will be annulled."

We see that, in contrast to international agreements, Israel does not define in the provisional bond clause of the Trade Duties Law the length of time for which a provisional bond may be imposed. There is no restriction.⁹⁸ In Israel, provisional bonds have been imposed for long periods of one, two, or even three years. An example stems from a complaint filed on September 14, 1993, by Cargal Carmel and YMA regarding the dumping of corrugated cardboard packaging from South Africa. The bond was imposed on September 14, 1993, and only annulled on June 25, 1996, i.e., three years later.⁹⁹

Having reviewed the legal framework, we will now examine the scope of the use made of the Trade Duties Law, meaning the filing of applications by local manufacturers for imposition

of dumping duties. The fact that the law can be used as a substitute for restricting imports definitely puts temptation in front of local manufacturers, and since the law is not well formulated and is subject to various interpretations, it is all the easier to use.

In Israel, from the time the Trade Duties Law was enacted in 1991 until November 2000, 47 suits for dumping and security duties were lodged. Of these, 26 were either withdrawn by the complainant or rejected by the commissioner (see table 4).

Table 4

Suits for the Imposition of a Dumping and/or Safety Duty, 1991-2000

Total complaints processed	47
Decision taken not to impose duty	8
Withdrawn by complainant or rejected by commissioner at various stages	26
Minister of industry and trade decided to impose duty or accept commitment from foreign manufacturer	13
Of the above: Commitments received from foreign manufacturer	1
Minister of finance did not approve duty	2
Duty imposed by order	10

Source: Ministry of Industry and Trade, Trade Duties Unit, www.tamas.gov.il

Dumping complaints were lodged against metal piping from Germany, packaged shoe polish from France, pasta products from Italy, chewing gum from Greece, carbon paper from Germany, transformers from Germany and Belgium, cardboard packaging from South Africa, bottles and jars from Portugal, iron from Italy, plasterboard from the U.S., atropine hypodermic syringes from the U.S., baked goods from the European Community, PVC from the United States, baby diapers from Germany, synthetic bedding from Britain, optical fibers from Korea, recycled polyethylene from Germany, steel hoops from China, denim from the U.S. and Mexico, sealing brushes from Spain and Britain, yeast and salts from Turkey, and more.¹⁰⁰

Complaints of dumping arrived from all economic sectors. But, as shown, they concentrated mainly in the steel and iron industry. In the course of time, the Israeli company Phoenicia Yeruham filed two complaints against imports of glass bottles and jars from Portugal and withdrew them both. One complaint was registered in 1993 and the other in 1998. Nakid Zafon Ltd. of the Israeli Osem group filed three dumping complaints. The first and second complaints, in 1991 and 1995 respectively, related to imports of pasta. In the first instance, the complainant withdrew the complaints, and in the second, the authorities decided not to impose a dumping duty. The company also filed a dumping complaint regarding imports of baked goods, but in this case, too, the investigation was suspended.

In this instance, the committee chairman expressly stated that were a formal legal proceeding involved, the committee would have ordered Osem to pay the costs of the appeal, inasmuch as it had proved groundless. Committee Chairman Dr. Reich also noted that the legislator should consider adding an amendment to the law that would impose obligations on

manufacturers filing groundless complaints: "...this applies especially with regard to complaints, appeals and requests for re-examination that prove to be entirely without foundation, and which cause the opposing parties to enter into considerable expense to contend with such proceedings....A situation in which the authorities are unable to order compensation for these unwarranted expenses occasioned to citizens, is not merely unjust, it is also inefficient, since it gives rise to needless deliberations that waste both the litigants' resources and state resources...."¹⁰¹

The conclusion to be derived from these statements and the above data is that many complaints were devoid of any justifiable economic basis and were designed simply to deter importers from entering the market.

Many sectors filed complaints, imposing hardships on consumers in each of those sectors. Let us consider the plywood sector.

Timber, Plywood and Fiber Products, and MDF Boards

In a *Ma'ariv* article entitled "You Can't See the Forest for the Plywood," Dan Mishor, the president of the Israel-Asia Chamber of Commerce, and former director general of the Ministry of Industry and Trade (1997-1999), wrote:

Plywood is one of Israel's more problematic industrial sectors. On the one hand, we have no edge in the manufacture of the raw material for the product. To put it simply, Israel is not richly blessed with thick forests, whose trees can be felled and made into raw material for the timber industry. On the other hand, transporting lumber to be sawed and processed in Israel involves high transportation costs....¹⁰²

Two industries make use of timber: The plywood industry (plywood being thin layers of wood glued together); and the MDF boards industry (MDF is a compressed mixture of thin wood fibers and glue). Diverse uses are made of these products; plywood serves as a raw material, mainly in the furniture sector (in construction of kitchens and doors). There are also special types of plywood that serve as molds to reinforce house construction at the shell stage.¹⁰³

Even in Israel's early years, the timber industry was a problematic one. Until the 1990s, the timber sector was totally protected against competing imports. Protection of the timber industry involved the use of various tools for restricting imports including import license requirements and restrictive standards. In addition, plywood manufacturers organized themselves into a cartel, which had the result of preventing the entrance of new manufacturers into the sector, preventing competition between cartel members, and putting in place various measures to ensure continued protection of local industry against competing imports.¹⁰⁴

In 1990, Israel's Antitrust Authority abolished the plywood cartel, bringing down prices and causing fierce competition. In 1992, both the licensing requirement and the standards for the importing of fiber were abolished. In 1997, part of the plywood standard was cancelled, leaving in place only the requirement to obtain health standards approval. The examination currently

required by the Standards Institution is for the presence of formaldehyde, a cancerous substance in the plywood.¹⁰⁵

In 1991, a process of exposure to products from Third World countries began.¹⁰⁶ The plan was that, after a period of five to seven years, all tariffs would be reduced to 8 percent for raw materials, 12 percent for end products and 10 percent for other products. The Israeli exposure process lasted until August 1997. Yet, the timber sector's exposure process ended only a year later, on September 1, 1998, and the tariff was fixed at the higher rate of 12 percent on plywood and fiber products, as mentioned above.¹⁰⁷

Today, plywood from the EU, with which Israel has a trade agreement, is duty-free. But plywood from Third World countries is dutiable at a rate of 12 percent. The lifting of restrictions at the beginning of the 1990s brought about a huge increase in total sector imports.

Although the sector was opened to imports, the principal sources of imports were not Third World countries, which constitute a negligible proportion, but countries with which Israel has trade agreements, mainly belonging to the Common Market and EFTA. These are the countries that account for 90 percent of import sources. It is thus obvious that the imposition of a customs tariff creates a diversion of trade from Third World countries to countries with which Israel has trade agreements.¹⁰⁸

Table 5 shows the effect of the lifting of tariffs with respect to certain countries, while leaving them in place with respect to Third World countries.

Table 5
Timber, Fiber and Plywood
(final tariff rate: 12 percent)

Source of Imports	Import Value (\$, million)			Market Segment (percentage of total imports)		
	9/90–8/91	9/95–8/96	9/96–8/97	9/90–8/91	9/95–8/96	9/96–8/97
Total	1.6	31.8	23.8	100.0	100.0	100.0
Common Market	0.2	22.8	16.1	11.2	71.7	67.5
United States	5.0	2.0	2.0	32.1	6.3	8.4
EFTA	0.2	6.3	5.5	9.9	19.9	23.2
Third World Countries	0.7	0.7	0.2	46.8	2.1	0.9

Source: State Revenue Administration, *Annual Report for 1997*, www.mof.gov.il/hachnasot/doch97/doch/perek14.doc [Hebrew].

Total imports rose in the early nineties from \$1.6 million in the first year of exposure to \$23.8 million in the sixth year of exposure. Imports from Third World countries almost ceased, while imports from Common Market and EFTA countries increased considerably. The table also shows how the various market segments were affected.

In 1998, after the tariff was lifted, a safety duty was imposed on imports of plywood from Third World countries. In fact, after tariffs were lifted, duties remained the only means of affording protection against competing imports.

In the past three years, two duties were imposed on imports of raw timber materials: a dumping duty on MDF boards and a safety duty on the import of plywood from Third World countries. The original safety duty was to be for one year, but was in place from March 1998 until September 1999. With the imposition of the duty, imports decreased by 20 percent. A dumping duty on MDF fiberboards was in place from June 1998 for 18 months. The duty was imposed on MDF from the U.S., Germany, Italy and Portugal.¹⁰⁹

Israeli government policy favoring the imposition of duties in order to protect the local plywood industry is still in force.

On November 26, 2000, local manufacturers Plywood Industries, Mifrak Kelet Ltd., and El-Ran filed a number of complaints demanding a safety duty on imports of plywood from China, at a level of \$50 per cubic meter, on the grounds that these imports were causing unemployment.¹¹⁰

The companies argued that imports would sell at 20 percent lower than existing prices. The Ministry of Industry and Trade responded to these complaints on December 4, 2000, by asking Kelet and Plywood Industries to present their allegations. The Ministry of Industry and Trade found that in 2000, there was a sharp increase in imports from China. According to the ministry, the share of imports from China rose from 9 percent in 1999 to 50 percent in monetary terms and to 60 percent in quantitative terms, while prices of imports from China fell. Following a discussion on January 24, 2001, the Ministry of Industry and Trade decided on an original method of coping with Chinese imports. Originally, no safety duty was to be imposed but, as a substitute, the minister of finance was called upon to use his authority to raise the customs tariff for Third World countries. Ministry of Industry and Trade officials accordingly approached the Ministry of Finance with a request that it exercise its powers to raise the tariff.¹¹¹ The following excerpt from the Ministry of Industry and Trade meeting presents the gist of the ministry's reasoning:

...There are no grounds for acting by means of a safety duty, necessitating discussions and a lengthy legal procedure of up to six months....Israel is entitled to raise the customs tariff on most plywood imported into Israel as part of its customs policy.¹¹²

The ministry decided to present two alternatives:

1. Imposition of a customs duty on the importing of plywood (other than those types for which Israel does not have corresponding local production). The customs duty would be at a rate of NIS 120 (approximately \$29) per cubic meter, in addition to the existing 12 percent duty. The duty would be imposed for the period of one year: "At the end of the year, the possibility of extending it will be explored, depending on the situation."

2. Imposition of a customs duty at a rate of NIS 200 (approximately \$48) per cubic meter, meaning NIS 200 in addition to the existing 12 percent duty. The duty would apply for a period of one year, and the option of extending it would be explored.¹¹³

In the opinion of the Ministry of Industry and Trade, the duty would result in an increase in the price of imports from Third World countries and a reduction in the quantity of imports from those sources.

The Ministry of Industry and Trade's approach regarding plywood, namely effecting a transition from the safety duty to the customs duty, set Israel back by a decade. It would seem that the use of official powers for raising customs duties for imports of plywood was aimed at bypassing the Trade Duties Law and the mechanism for imposing safety duties.

The "lengthy legal procedure" the ministry complained of, and ostensibly because of which it originally decided not to impose a safety duty, was not meant to make the lives of Ministry of Industry and Trade officials unnecessarily difficult. Rather, it was designed to enable decisions to be reached on the basis of proper, fair, factual underpinnings. The Ministry of Industry and Trade flagrantly flouted the policy established at the beginning of the 1990s regarding the lowering of customs duties and the exposure of the economy to imports, and planned to raise tariffs. This meant and means setting the economy one huge step back.

Following the Ministry of Industry and Trade's original decision to raise the tariff, importers presented legal briefs to the Ministry of Finance. They threatened to go to court if the decision to raise customs duties were upheld.¹¹⁴

When the Ministry of Industry and Trade failed to convince the Finance Ministry to follow its recommendations, it decided to reinstate the safety duty on plywood. A safety duty was in fact imposed in 2001, for three months. Section 2 of the law provides that the minister of industry and trade may impose a safety duty on the importing of goods into Israel, inter alia with a view to protecting local industry.

Legally, however, in certain instances, the imposition of such a duty is conditional on "real damage caused or liable to be caused by competing imports, having regard to the benefit accruing to the economy from the imports. 'Real damage' is defined even as the result of differences in the cost of agricultural components in imported food products, compared to their cost in food products of local manufacture."¹¹⁵ Most astonishing in this whole Ministry of Industry and Trade process is the fact that the ministry's imposition of a safety duty passed as acceptable, whereas legally speaking it was not, since the findings obtained had not, as the importers pointed out, been reached by the painstaking process stipulated under international law.

A legal opinion submitted to the Ministry of Finance director general criticizes the collection of material and the method of determining the existence of real damage. According to Einat Bracha, adv., legal advisor to the Association of Chambers of Commerce:

...a number of factual findings are presented briefly, partially and in a laconic fashion. These findings, on the face of it, do not amount to the factual infrastructure required for imposing a safety duty. To dispel any doubt, I state that plywood importers in the division deny these findings per se.¹¹⁶

Thus, according to the importers, there was no justification for imposing a safety duty on imports of plywood from China. But the importers' arguments were rejected, and the Ministry of Industry and Trade decided, in light of all these developments, not to raise the tariff, but to impose (in July 2001) a safety duty for three months at the rate of \$50 per cubic meter. This was done in order to protect local manufacturers from the need to shut down factories. In other words, the decision was based on political pressure rather than solid data.

As of this writing, plywood importers have appealed to the courts. According to Amit Avner, director of the Light Industries Section of the Chamber of Commerce: "By means of the [Trade Duties] Law, the Ministry of Industry and Trade has allowed [local] industries time to organize."¹¹⁷

The next section will take a close look at this industry and show that plywood and timber are two cases in which the government has intervened in the establishment of a factory, and has protected the timber and plywood industries by various means.

MDF Boards: Developmental Survey

The Plywood Industries groups, situated near the Golani Junction, was founded in the early years of statehood. The plant produced Formica and plywood and for many years operated with monopoly status. The government's prevention of imports enabled the company to reinforce its monopoly.¹¹⁸ In 1996, the group, owned by the families who also owned Ashkelon Plywood (which was at least temporarily shut down this year), decided to set up an MDF plant in partnership with a Bank Hapoalim subsidiary, Ampal.

The set-up of the MDF plant involved high costs, estimated at start by the owner of the concern at \$25 million. But the final cost of the plant ultimately reached \$52 million.¹¹⁹

One of the main reasons the plant proved unprofitable was that Israel does not produce a large quantity of timber. The Jewish National Fund (JNF), constituting an arm of the government, supplied the timber and undertook to supply the Golani Junction plant with 80,000 tons a year for a period of ten years.¹²⁰ This quantity does not cover total production requirements, however, as the factory is capable of absorbing 60 percent more timber. To make good the deficiency, the plant imported timber in order to manufacture the MDF boards.

After the plant was established, warnings that it would be unprofitable proved correct. In 1996, a year in which it was operating in an organized fashion for only six months, MDF recorded a loss of NIS 29.7 million (over \$9 million). Among the reasons for the loss were a drop in MDF board prices, a low efficiency level, high timber-felling costs, competing imports at alleged dumping prices and marketing expenses.¹²¹

An enterprise is measured by its ability to compete and its effectiveness against others. This factory's low level of efficiency was demonstrated in its inability to compete with imports of MDF boards from countries with which Israel has trade agreements: the U.S., Germany, Italy and Portugal.

The MDF plant admitted it was unable to cope with the losses occasioned by low import prices, alleging dumping. In the past, Israel provided protection against imports by means of very high customs tariffs. Once these tariffs were lifted, the only means MDF could find of competing with low import prices was to file a dumping complaint under the Trade Duties Law.

MDF Industries Ltd. did in fact lodge a complaint against the overseas manufacturers and the importers. The manufacturers were Georgia Pacific of the U.S. and Siaz of Portugal. The Israeli importers were Birman Timber and Timber Products Ltd., Lavi Plywood Ltd., Bishi (Israel) Ltd., Nissim Fargoun Trading Ltd., The Formica Centre, Zaidan Timber and Marketing Ltd. Opposing all these companies, their many employees and the many consumers who use their products, was one local MDF factory.

In December 1998, the Knesset Finance Committee approved an order to impose a dumping duty of \$18-\$80 per cubic meter on imports of boards from the U.S. and Europe.¹²²

In the case of MDF boards, Israel clearly did everything in its power to protect the local manufacturer.

This happened even though before the duty was imposed, at the provisional bond stage, the viability of the MDF plant appeared doubtful. At the very beginning of the dumping investigation, Dr. Aryeh Reich, head of the Ministry of Industry and Trade advisory committee, raised the question of the viability of the plant that was seeking protection. At that point the plant was still in its set-up stage.

In the U.S., the issue of viability was addressed in a decision of the International Trade Commission (ITC) in the matter of "certain dried salted codfish from Canada." The U.S. commission gave the following definition of "viability": "The ability to produce a marketable product, which is qualitatively acceptable to purchasers, and which can be sold at a price which is competitive with fairly traded imports."¹²³

In the opinion of the Israeli advisory committee chairman, Reich, the commissioner dealing with the MDF plant must address this question. According to Reich:

An examination of this viability is required since it would be unjustifiable and illogical to provide protection to a local production sector which has no real prospect of truly competing with the fair importing of similar products. The imposition of a duty in a case such as this, on imported products, will merely result in making prices higher for consumers, without producing any genuine benefit for the development of industry in Israel.¹²⁴

This reasoning was not taken into account. Warnings of the plant's unprofitability came from other quarters, too. The MDF boards plant did, in fact, eventually prove unprofitable. But the decision was taken to build the plant, and the dumping duty was imposed, which could have been avoided had the viability of the plant been taken into account. The price of furniture to consumers had to be raised because of the dumping duty, a move that was hardly conducive to the existence of the plant as a going concern.

A brief survey of the industry shows that before the plant was established, MDF boards were being imported. A decision to restrict imports was taken after the plant was founded in 1996. The foremost means of restricting imports was through the Trade Duties Law, and a dumping duty of \$55 per cubic meter was imposed for a period of 18 months (December 17, 1998 to June 17, 2000).¹²⁵

In July 2001, a decision was made to liquidate the plant.

Plywood

This country has had, at various times, five plywood factories: Plywood Industries (Taal), Ashkelon Plywood, Kelet Afikim on Kibbutz Afikim, and El-Ran in Arad. Taal and Kelet Afikim are still operating though they are in grave financial straits. Each employs about one hundred people.

Ashkelon Plywood was supposed to close in 2000, when management claimed it was not financially viable. Yet it employs 50 people today.¹²⁶

In June 2000, *Globes* reported regarding Ashkelon Plywood that:

Management called for government support as a condition for not closing down the plant. Minister of Industry and Trade Ran Cohen approved the imposition of a safety duty....The Ashkelon municipality also came to the assistance of the plant and awarded it a 50 percent discount in municipal tax rates, as long as management re-opened immediately and put the employees back to work. Yet management announced it had decided not to open the plant.¹²⁷

Before the exposure process, in 1991, Kelet Afikim and Taal were at the height of their prosperity. Timber for the manufacture of plywood was purchased from a state-owned plant in Gabon, France. Gabon also had some other, smaller plants, but these were largely overshadowed, in terms of strength and market share, by the state-owned plant. In order to obtain low prices, Israeli plants got together and reached purchasing and maritime transportation arrangements enabling the state plant in Gabon to offer significant discounts. The plants came to a mutual understanding regarding special plywood export prices.¹²⁸

Israel intervened in the plywood sector, breaking up the domestic plywood cartel during the 1990s. In the preceding decade, Israel had prohibited imports, permitting competition only as

described above. But, as explained, once the market was opened to imports from Third World countries, a safety duty was imposed in August 1998, at the rate of NIS 140 (approximately \$34) per cubic meter, until December 31, 1998; and as of January 1, 1999, the duty was at a rate of NIS 70 (approximately \$17) per cubic meter. As elections were then in the offing, the duty was extended until September 7, 1999. In July 2001, a safety duty was imposed on plywood at a rate of \$50 per cubic meter for a period of three months.¹²⁹ The Histadrut General Labour Federation is currently calling for it to be extended for a further 12-month period.¹³⁰

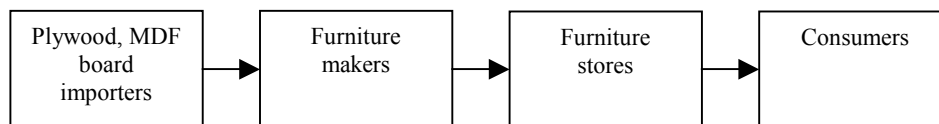
One of the arguments advanced to justify the safety duty currently being imposed on plywood is that it will prevent local factories from closing down. The Ministry of Industry and Trade proposed a rehabilitation plan for such plants, according to which the activities of Taal and Kelet Afikim ought to be consolidated, and a safety duty imposed. The merger of the two companies is presently under review before the courts.

In December 2001 the Knesset Finance Committee approved NIS 2.5 million in aid, bringing the total of state loans to Kelet Afikim, Ashkelon Plywood and Taal to NIS 14.5 million, about \$3.3 million.¹³¹

How are Consumers and the Economy Affected?

In order to explain the effects of the above on the economy, the structure of Israel's plywood industry and the use being made of this raw material will be outlined. Plywood and MDF boards are raw material serving for the manufacture of furniture (including kitchens) and doors.

Figure 5



The Israel Manufacturers Association has a raw materials importers division for the furniture industry, which includes importers of plywood, fiberboard, MDF, Formica, and other raw materials serving the furniture industry. Most major importers belong to this division. These importers sell the raw materials to Israel's furniture industry, which manufactures furniture and sells it to the public.

One argument advanced in favor of duties is that their imposition will prevent layoffs. But in reality, not only does the imposing of duties actually bring about layoffs, it also proves "helpful," if at all, only in the short term. In the case of the plywood industry, imposing a duty will result in a greater number of unemployed than not imposing it. The Israel Business Organization studied the furniture sector and found that every percentage point added to the price of a product resulted in the layoff of 70 employees, and that imposition of the duty would result in a 7 percent increase in the price of furniture. In the short term, the 7 percent increase would

translate into the layoff of 500 employees. The total number of persons employed in the two local plants seeking protection in 2000 was 310 (200 in Taal, 110 in Afikim). This compares with 1,205 employees in the wider industry (plywood and timber) in 1999.¹³² However, the furniture sector, which constitutes an important component of the plywood industry and which is adversely affected by duties, has 180 plants, each of which employs more than 20 people, as well as smaller plants. The sector as a whole employs at least 13,000 people; importers of raw materials for the timber industry account for another 700 employees.¹³³

Apart from the risk of layoffs and the rise in unemployment, consumers are also hurt by the customs duty on plywood, port taxes, forwarding fees and, of course, the safety duty. The customs tariff currently stands at 12 percent. The price of a cubic meter of plywood from China ranges from \$200 to \$290 (or \$250 per cubic meter on average; there are various estimates). A \$50 safety duty per cubic meter comes to 20-25 percent of the cost of importing the plywood. Together with the customs duty, the price of plywood resulting from protection by government intervention comes to a little less than a whopping 40 percent of the total price. As noted, the imposition of a safety duty at that rate increases the price to the furniture-purchasing consumer by about 7 percent.¹³⁴

An interesting question is how much economic damage has been done to consumers and to the economy as a whole by the duties. No serious, recent research has been published on this subject, although in 1989 one study focused on the damage done regarding shoes and carpets. The duties imposed on shoe imports, for instance, were found to have inflicted losses of \$1.5 million on Israelis and Israel's economy.¹³⁵

Summary and Recommendations

A study conducted by the World Economic Forum (WEF) in 1999 examined the rating of various countries in different aspects of competitiveness. Surveying 59 countries, the study related to various features of the use of new technologies, the labor force's ability to compete and its educational level, the country's transport system and communications network, management quality and employee training. The study also has an index for examining the level of integration of individual countries regarding the liberalization of foreign trade, openness to foreign investment and exchange-rate policy. On an international foreign trade scale, Israel achieved a very low rating, placing 40th. One reason for this low rating was hidden import barriers, which hurt the economy.¹³⁶

There was good reason for Israel being assigned so low a rating. From the very outset, as we have seen, Israel applied an import-restriction policy, using quotas, restrictions, standards, customs duties and barriers in the form of other duties. Use of these duties resulted from Israel's being a signatory to international agreements prohibiting the use of non-tariff barriers and high customs duties.

This *Policy Studies* has reviewed the use made by Israel of various barriers for preventing imports. These included: 1) import licenses; 2) standardization; 3) various import laws; 4) the use of duties. All these barriers were the fruit of government intervention, which

adversely affected the economy. The WEF study, using its index to measure the liberalization of foreign trade policy, gave Israel a low rating. Even worse, however, was its index measuring government functioning, the effects of the policy of government involvement in the economy, the quality of government services and marginal tax and spending rates. In all these, Israel placed very low, 46th out of 59 countries.

There is an obvious link between the two, as the example of the plywood sector shows. Plywood is a sector that has undergone most of Israel's import restriction processes: In the early years of statehood, the import of plywood was prohibited; this prohibition was later replaced by import licenses and standards-based restrictions. All these prevented imports, so that factories were under no duress to be efficient in order to survive. This combination of an erroneous trade policy with incessant government intervention, still ongoing, which has included the injection of cash to ensure the survival of plywood plants, in addition to the imposition of the safety duty to protect local industry, has caused and is still causing Israel to be assigned a very low rating.¹³⁷ The economy has suffered, as shown in the injury to consumer welfare and economic growth. The sustainable competitive edge of Israeli enterprises is being damaged, giving rise, ultimately, to higher unemployment and inflation, not to mention impinging on the freedom of Israeli citizens to purchase their choice of goods and to import and manufacture as they please.

Recommendations

A proper system of rules and regulations for the administration of trade policy should embody the following principles: Independence from political pressure; objectivity; simplicity; consumer protection (in terms of prices and choices, not putative safety); and freedom.

Standardization:

1. Israel must separate the Standards Institution from the Ministry of Industry and Trade. Operating under the aegis of the Institution should be:
 - a. A professional committee with only a small number of government representatives. This committee should employ experts and professionals in different fields to determine standards content, and act to accelerate the process of adapting Israeli standards to international ones. (Israeli standards cannot simply be abolished, since Israel has products that it alone manufactures, or that were invented in this country, and situations may also come about in which specific problems arise, necessitating solutions suited to Israeli conditions.) The Standards Institution may be a government body that approves standards, but the activity of the laboratories should be privatized.
 - b. Private laboratories should function in various fields, and they can provide importers with testing services. These laboratories should be under professional supervision only. The laboratories should compete amongst themselves to provide testing services, whereas today there are only a few laboratories operating in foodstuffs and construction.

2. Israel should endeavor to reach trade agreements with countries with which it presently has no agreements, such as Third World countries.
3. The problems of Israel's Trade Duties Law need to be addressed:
 - a. Israel should establish an advisory committee as a distinct entity, separate from the Ministry of Industry and Trade. Examination of damage should be the province of two separate professional committees, similar to those existing in the U.S. and in line with GATT, as outlined above. Thus Israel's new system for imposing duties will be what appears in figure 4.
 - b. Israeli law as a whole should be brought in line with international law, regarding both the safety duty and the dumping duty.
 - c. Since international law enables duties to be imposed for the protection of local enterprises, the Israeli government would be well advised not to protect failing enterprises. Rather, before invoking protection for this or that enterprise, external bodies, unconnected with political concerns, should conduct examinations. This should be done at the initial stage, before the duty is imposed. Such examinations could be avoided altogether were the government to cease its subsidization and protection so that enterprises in Israel would be subject to freedom and markets, showing which are competitive and which can survive without artificial life-support from the state.

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NOTES

¹ State of Israel, *Bills* 1961, December 25, 1989, p. 30 [Hebrew].

² Knesset Finance Committee, 15th Knesset, 2d sess., March 5, 2001, *Protocol* 224 [Hebrew]. Oilcakes: Soy oil is made from soybeans imported from the United States. A by-product is oilcake, the husks of the soybeans after being pressed, which serve as livestock protein feed. *Ha'aretz* reported on September 12, 2001 that tariffs on oils and oilcakes were raised in order to protect local industries in financial straits.

³ *Ibid.*

⁴ Nadav Halevy and Ruth Kalinor-Maloul, *Economic Developments in Israel* (Jerusalem: Akademon, 1968), pp. 195-196 [Hebrew].

⁵ Nadav Halevy, "General Survey: The Protection and Exposure of Israeli Industry," in *Import Policy and Israeli Industrial Exposure*, ed. Nadav Halevy (Jerusalem: Falk Institute, Hebrew University, 1994), p. 3 [Hebrew]. Halevy is quoting a working paper by Tzippi Gal-Yam, then at the Bank of Israel's Research Department.

⁶ Aliza Brezis and Avi Weiss, "Structure of the Import Market and Foreign Trade Policy: The Sole Importer Phenomenon," *Economic Quarterly*, August 1995, p. 276 [Hebrew].

⁷ Ibid.; Nadav Halevy, "Protecting Industry by Means of Import Licensing," *Economic Quarterly* 153 (1992), p. 219.

⁸ Brezis and Weiss, "Structure of the Import Market," p. 276.

⁹ Ibid.

¹⁰ Halevy, "General Survey," p. 8.

¹¹ Brezis and Weiss, "Structure of the Import Market," p. 277.

¹² PQI is a method originally designed to increase import value for the purpose of imposing purchase tax. Purchase tax applies to the difference between the value of the import to the importer and its wholesale value. The dollar was originally supposed to be subject to a customs tariff in a ratio of 1:1, meaning \$1=\$1, but the customs duty was imposed on a higher dollar exchange rate, for example, \$1.25=\$1. The duty was also applied to the 25 percent increment, so that importers were being forced to pay a higher rate of customs duty on the products. Avraham Poraz, chairman of the Knesset Finance Committee, interview with the author, Jerusalem, July 23, 2001. For more information on the PQI, see Yosef Peltzman, "Local Taxes as an Alternative to Foreign Trade Policy," in *Import Policy and Israeli Industrial Exposure*, ed. Halevy.

¹³ Poraz, interview.

¹⁴ Brezis and Weiss, "Structure of the Import Market," p. 277; Halevy, "Protecting Industry," p. 12.

¹⁵ *Knesset Protocols*, 12th Knesset, 2d sess., vol. 117, pp. 3298-3299 [Hebrew].

¹⁶ Halevy, "Protecting Industry," pp. 220-221; *Hadashot*, August 26, 1991.

¹⁷ Noam Zussman, "Economic Aspects of the Antidumping Duty," *Israeli Tax Quarterly* 103 (1998), pp. 69-84 [Hebrew].

¹⁸ *Trade Duties Law* 1991, www.tamas.co.il [Hebrew].

¹⁹ The effective rate of exchange is based on the actual price that someone pays for foreign currency, meaning the official exchange rate plus purchase tax, customs duty and other obligatory duties.

²⁰ Halevy and Kalinor-Maloul, *Economic Developments*, p. 192.

²¹ Ibid., p. 195.

²² Aliza Brezis, "The Structure of Israel's Trade System: Centralization of Imports," *Economic Quarterly* 104; www.mof.gov.il/museum/hebrew/brezis.htm (November 21, 2001).

²³ *Free Import Law 1977*, in *Kovetz Takanot 3788* (Jerusalem: Government Press, 1977), pp. 378-391 [Hebrew].

²⁴ *Ibid.*; *Free Import Law 1977*, Amendment 2, in *Kovetz Takanot 3822* (Jerusalem: Government Press, 1977), p. 804 [Hebrew].

²⁵ Halevy, "Protecting Industry," p. 221.

²⁶ See Arye Bar, "Centralization of Israeli Imports," *Import Policy and Israeli Industrial Exposure*, ed. Nadav Halevy (Jerusalem: Falk Institute, Hebrew University, 1994), p. 35 [Hebrew].

²⁷ *Ibid.*, pp. 33-35 [Hebrew].

²⁸ Brezis, "The Structure of Israel's Trade System"; Brezis and Weiss, "Structure of the Import Market."

²⁹ Amir Etzioni, *The Israeli Cement Industry*, Policy Studies, no. 32 (Jerusalem, IASPS, 1998), p. 21 [Hebrew].

³⁰ *Ha'aretz*, March 4, 1999.

³¹ Yossi Borochoy, "The Oil Refinery Sector in Israel" (IASPS, Jerusalem, 2001, draft); Steven Plaut, *Water Policy in Israel*, Policy Studies, no. 47 (Jerusalem, IASPS, 2001).

³² State Comptroller, *Report of the State Comptroller 42* (Jerusalem: State Comptroller's Office, 1992), p. 701 [Hebrew].

³³ *Ibid.*

³⁴ Until December 1990, the commissioner authorized 18 approved laboratories, 16 of which have connections to government ministries or to the Technion, and only two private laboratories, one in the foodstuffs sector and one in the construction sector. See *ibid.*

³⁵ *Ibid.*, p. 704.

³⁶ State Comptroller, *Report of the State Comptroller 41* (Jerusalem: State Comptroller's Office, 1991), pp. 494-497 [Hebrew]; Michael Wolf, director of Standardization Division, Standards Institution, telephone interview with the author, June 5, 2001.

³⁷ An Israeli standard that has been declared an official standard is recorded in the official *Gazettes* as an official standard.

³⁸ See Standards Institution, www.sii.org.il

³⁹ Poraz, interview.

⁴⁰ Wolf, interview.

⁴¹ International standards include standardization from all parts of the world. For example, 140 countries subscribe to the ISO standards, www.iso.ch/iso/en/isononline.frontpage

⁴² Standardization Division Director Michael Wolf says that an insufficiently high standard could result from that fact that international standards are subscribed to by various countries some of which are highly developed and some less so. The developing (Third World) countries may dictate the standard, which is positioned at a level lower than that of the developed countries. Wolf, interview.

⁴³ State Comptroller, *Report 41*, pp. 492, 495.

⁴⁴ The European Community (European Union) currently includes Austria, Italy, Ireland, Belgium, Britain, Germany, Denmark, Holland, Greece, Luxembourg, Spain, Portugal, Finland, France, and Sweden.

⁴⁵ Another six countries then joined the European Community: Ireland, Denmark, Spain, Greece, Portugal, and Germany. At the time the EC thus reached a membership of 12.

⁴⁶ State Comptroller, *Report 41*, p. 490.

⁴⁷ *Ibid.*, p. 491 states: "The economic benefit to be derived from the unification of the market is estimated at \$250 billion (at 1988 prices) annually. Competition and efficiency will enable product to be increased by 5 percent, and six million new jobs to be created within a few years. According to a report published by the Ministry of Industry and Trade, based on Ministry of Industry research on the anticipated effect of increased competition and efficiency on the community's economy, prices in the community countries will fall by an average 5.3 percent."

⁴⁸ Based on *ibid.*, pp. 494-495.

⁴⁹ One hundred and six countries, including the European Community, are signatories to this agreement.

⁵⁰ State Comptroller, *Report of the State Comptroller 45* (Jerusalem: State Comptroller's Office, 1995), p. 531 [Hebrew].

⁵¹ State Comptroller, *Report 41*, p. 496.

⁵² *Knesset Protocols*, 12th Knesset, 2d sess., vol. 115, pp. 1160-1168 [Hebrew]. See the introduction to this paper.

⁵³ According to the Ministry of Industry and Trade, the reason for the additional marking was that consumers erroneously believed that the word "Germany" referred to the name of the product rather than the country from which it was imported, and therefore it must be replaced by "Made in Germany." See *Yediot Aharonot*, January 23, 1990.

⁵⁴ *Knesset Protocols*, vol. 115, pp. 1160-1168; *Yediot Aharonot*, January 23, 1990.

⁵⁵ *Yediot Aharonot*, January 23, 1990.

⁵⁶ State Comptroller, *Report 45*, p. 531.

⁵⁷ *Yediot Aharonot*, January 23, 1990.

⁵⁸ State Comptroller, *Report 42*, p. 496.

⁵⁹ Brezis, “The Structure of Israel’s Trade System.”

⁶⁰ Ibid., based on *Wissotzky Tea (Israel) Ltd. v. Minister of Health, et al.*, High Court of Justice file no. 1934/95, *Piskei Din*, vol. 49, p. 627 [Hebrew].

⁶¹ State Comptroller, *Report 42*, pp. 702-703.

⁶² State Comptroller, *Report 45*, p. 530.

⁶³ Ibid.

⁶⁴ Ibid., p. 531.

⁶⁵ Ibid.

⁶⁶ Nelly Munin, “From a Visit to The World Trade Organization (WTO),” *Israel Tax Quarterly* 98 (1998), p. 41 [Hebrew].

⁶⁷ Ibid.

⁶⁸ Tal Sadeh, “Israel and the EC: Is a Tariff-Union Better than a Free Trade Zone?” *Israel Tax Quarterly* 104 (1999), p. 29.

⁶⁹ Brezis, “The Structure of Israel’s Trade System.”

⁷⁰ The member states of the European Free Trade Area (EFTA) are Austria, Switzerland, Sweden, Finland, Iceland, and Liechtenstein.

⁷¹ Nelly Munin, “GATT and Trade in Services,” *Israel Tax Quarterly* 107 (2000), p. 50 [Hebrew].

⁷² State Comptroller, *Report 45*, p. 523.

⁷³ Ibid.

⁷⁴ Avigdor Dorot, adv., interview with the author, Jerusalem, July 23, 2001.

⁷⁵ State Revenues Administration, *Annual Report for 1999*, no. 49 (Jerusalem: State Revenues Administration, 2000), pp. 179-180 [Hebrew].

⁷⁶ Ibid., p. 182.

⁷⁷ Zussman, “Economic Aspects,” pp. 69-84; Dorot, interview.

⁷⁸ More information on different subsidies can be found at: www.tamas.gov.il/root/sachar_hutz/hescemi_sachar/

⁷⁹ See section 2(A) and sub-sections (2)(6)(7) of the *Trade Duties Law 5751*.

⁸⁰ The protection afforded to the plywood industry by the past and current ministers of industry and trade will be discussed further on in this *Policy Studies*; for the protection afforded to the cutlery industry by then Minister of Industry and Trade Ariel Sharon, see p. 1.

⁸¹ Dorot, interview.

⁸² Based on *Regent Ice Cream v. Minister of Industry and Trade, Piskei Din 793/95* [Hebrew]. The minister had intended to impose a duty on ice cream, but the court ruled that no such duty could be imposed.

⁸³ Ministry of Industry and Trade, *Questions and Answers Regarding Import Dumping, A Guide for the Local Manufacturer and Importer* (Jerusalem: Ministry of Industry and Trade, 2000) [Hebrew].

⁸⁴ Zussman, "Economic Aspects," p. 70.

⁸⁵ Gil Nadel, adv., interview with the author, Tel Aviv, August 5, 2001. Nadel deals in import-related matters.

⁸⁶ Ministry of Industry and Trade, Trade Duties Unit, *Decisions of the Advisory Committee Chairman in the Matter of Antidumping Duties and Equalization Duties, Reservations Submitted Pursuant to Section 49(A) of the Trade Duties Law, 5751-1991, 1991-1997, Open Version* (Jerusalem: Ministry of Industry and Trade, 2000), Decision of June 16, 1996, pp. 4-14 [Hebrew].

⁸⁷ *Ibid*, pp. 8-9.

⁸⁸ Ministry of Industry and Trade, *Decisions*, Decision of June 16, 1996, p. 7. A complaint was filed in Israel against PVC dumping, and as a result, the importer James Palace filed an appeal against the local manufacturer, Electrochemical Industries (Frutarom) Ltd. concerning the provisional bond that was imposed on Palace. The local manufacturer demanded that the provisional bond be increased.

⁸⁹ *Ibid*; *Faiz Alqutib, et al. v. Halil Alexander Shahin, et al.*, Civil Appeal 522/70, *Piskei Din* 25(2), pp. 77, 80 [Hebrew]. See also, *Haim Hertz Amsterdam, et al. v. Minister of Finance*, HCJ 279/51, *Piskei Din* 6, pp. 945, 966; *Sheikh Sulimein Hasien Uda Abu Hilo, et al. v. Government of Israel, et al.*, HCJ 302/72, *Piskei Din* 27(2), pp. 169, 177.

⁹⁰ Aharon Barak, *Juridical Interpretation*, vol. 2 (Jerusalem: Nevo Publishers, 1993), p. 576 [Hebrew].

⁹¹ See *Bills* 1859, December 9, 1987, p. 56 [Hebrew].

⁹² Talia Einhorn, "Reconciling Israeli Antidumping Law with WTO/GATT International Trade Law Rules," *Israel Law Review*, vol. 3, no. 1 (winter 1998).

⁹³ A provisional bond is a sum of money taken from the importer pending a decision as to whether the complaint is justified, and whether a duty will be imposed.

⁹⁴ The advisory committee is a professional committee consisting of a committee chairman (currently Dr. Aryeh Reich), one public representative and "professionals" who make recommendations based on the findings of the examinations.

⁹⁵ Einhorn, “Reconciling,” pp. 120-122; *Trade Duties Law 5751, Special Duties Bill 5748-1987; Bills 1859*, p. 56 [Hebrew].

⁹⁶ *Ibid.*, p. 113.

⁹⁷ *Ibid.*, p. 123.

⁹⁸ Devora Milstein, adv., legal advisor to the Trade Duties Unit of the Ministry of Industry and Trade, interview with the author, Jerusalem, February 7, 2001.

⁹⁹ Ministry of Industry and Trade, Trade Duties Unit, “Table of Complaints Filed Against the Imposition of Duties Commencing 1991” (Trade Duties Unit, n.d., n.p.).

¹⁰⁰ Ministry of Industry and Trade, Trade Duties Unit, www.tamas.gov.il

¹⁰¹ Ministry of Industry and Trade, Trade Duties Unit, *Decisions*, p. 8.

¹⁰² *Globes*, March 12, 2001.

¹⁰³ Yehiel Sharki, chairman of Levidim, and an importer, interview with the author, Tel Aviv, March 22, 2001.

¹⁰⁴ State Revenues Administration, *Report 49*, p. 187.

¹⁰⁵ Sharki, interview; Wolf, interview.

¹⁰⁶ Asia, South American, and Eastern Europe.

¹⁰⁷ State Revenues Administration, *Report 49*, p. 179; *Annual Report for 1997*: www.mof.gov.il/hachnasot/doch97/doch/perek14.doc

¹⁰⁸ State Revenues Administration, *Report 1997*, p. 237.

¹⁰⁹ Trade Duties Unit, “Table of Complaints.”

¹¹⁰ Trade Duties Unit, *Summary of Discussion on Plywood, Held on 24.01.2001 in the Director’s Office* (Jerusalem: Ministry of Trade and Industry, January 29, 2001) [Hebrew]. Participants in the discussion included Ministry of Finance Director General R. Horesh, Gabriella Cohen of the Foreign Trade Staff, A. Orenstein, director of the Chemicals Authority, and R. Pesah, commissioner of trade duties.

¹¹¹ *Ibid.* The minister of finance’s power to raise customs tariffs is provided in section 5 of the Customs Tariff and Exemptions Ordinance, 1937 and section 1 of the Customs and Excise Taxes Law (Change of Tariff), 1949, under the conditions that are listed there. The power to increase the tariff is at the sole discretion of the minister of finance. The Ministry of Industry and Trade cannot force the minister of finance to raise the tariff.

¹¹² Trade Duties Unit, *Summary*, p. 2.

¹¹³ Ibid.

¹¹⁴ Einat Bracha, *Legal Opinion: The Illegality of Raising Customs Tariffs on Plywood Imports from Third World Countries* (Tel Aviv: Association of Chambers of Commerce, February, 2001) [Hebrew].

¹¹⁵ *Trade Duties Law 5751-1991*, www.tamas.gov.il/tamas_mainlink.asp?link=bin/goto.asp?{F8207}.

¹¹⁶ Bracha, *Legal Opinion*.

¹¹⁷ Amit Avner, director of Light Industries Section, Chamber of Commerce, interview with the author, July 22, 2001.

¹¹⁸ *Globes*, March 8, 1998.

¹¹⁹ *Globes*, June 6, 1997.

¹²⁰ Ibid. For more information on the JNF see David Blougrund, *The Jewish National Fund*, Policy Studies, no. 49 (Jerusalem: IASPS, 2001).

¹²¹ *Globes*, June 6, 1997.

¹²² *Globes*, December 6, 1998.

¹²³ Ministry of Industry and Trade, Trade Duties Unit, *Decisions*, Decision of August 22, 1997, p. 6.

¹²⁴ Ibid., pp. 6-7.

¹²⁵ Trade Duties Unit, "Table of Complaints."

¹²⁶ *Globes*, December 30, 2001.

¹²⁷ *Globes*, June 12, 2000.

¹²⁸ Special plywood refers to the molds that serve for reinforcing building shells.

¹²⁹ Trade Duties Unit, "Table of Complaints."

¹³⁰ *Globes*, July 2, 1998: The Israeli economy was and is at the mercy of the Histadrut. When questions of duties arise the Histadrut usually advocates protectionism. In 1998, for instance, the Histadrut initiated activities to show "solidarity" with plywood industry employees. Histadrut Chairman Amir Peretz ordered port employees not to unload a Korean ship loaded with 200 tons of plywood. Preventing imports in this manner eliminates competition.

¹³¹ *Globes*, December 30, 2001.

¹³² Israel Business Organization, "The Situation of the Furniture Sector in Israel," in *Report of the Israel Business Organization* (Tel-Aviv: Israel Business Organization, 2001), pp. 1-2 [Hebrew]. The report is

based on data from the Ministry of Industry and Trade, the Central Bureau of Statistics, and of Mallal Systems Ltd.

¹³³ The Israel Association of Wood & Furniture Manufacturers, “The Furniture Industry, 2000 Summary,” August 22, 2001, www.furnish.co.il

¹³⁴ Marcelo Shemer, secretary general of the Israel Association of Wood & Furniture Manufacturers, telephone interview with the author, August 27, 2001.

¹³⁵ Association of Chambers of Commerce, *Israel's Foreign Trade Policy* (Tel Aviv: Association of Chambers of Commerce, 1989), pp. 47-49 [Hebrew]. A search of the Bank of Israel and Bar Ilan University libraries, the Finance Ministry, and editions of the *Israel Tax Quarterly* turned up no additional studies.

The 1989 publication estimated losses from duties and PQI. The study compared imported and locally manufactured shoes. For purposes of comparison, leather sneakers made by Gali were used. A pair of sneakers imported from the Far East cost NIS 45.34 at point of entry, before taxes, while a locally produced pair cost NIS 81.16, also without taxes.

The study also considered the taxes: State tax income from the domestic pair was NIS 0.1478; from the imported pair NIS 24.556.

A government-forced reduction in imports of 50,000 pairs, then, theoretically cost consumers NIS 35.82/pair while the state lost NIS 24.078 in tax income per pair.

The study concluded $35.82 + 24.078 = 59.90$, at an exchange rate of NIS 1.992 to the dollar = \$30.07, multiplied by 50,000 totals \$1,503,500.

This *Policy Studies* is not endorsing or confirming the study's methodology or results, just noting that this is the only such publication available.

¹³⁶ Manufacturers Association of Israel, “Association Publications,” www.industry.org.il

¹³⁷ *Ha'aretz*, August 22, 2001.

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