

Restrictive Trade Practices Law 1988

Chapter I: Definitions

1. Definitions

In this Law –

- "The President of the Tribunal" – Including the deputy to the President of the Tribunal;
- "Industry Association" – A body of persons, whether or not incorporated, all or some of whose purposes involve the promotion of the business interests of its members;
- "Consumers' Organization" – An organization representing consumers, approved by the Minister of Justice for the purposes of this Law;
- "The Tribunal" – The Antitrust Tribunal, established in accordance with this Law;
- "Restrictive Trade Practice" – A restrictive arrangement, a monopoly or a corporate merger;
- "Arrangement" – Whether express or implied, whether written, oral or behavioral, and whether legally binding or not;
- "Company" – A company founded and incorporated in accordance with the Companies Ordinance [New Version], 1983, including a foreign company so incorporated, an incorporated cooperative society within its meaning in the Cooperative Societies Ordinance and a partnership incorporated in accordance with the Partnerships Ordinance [New Version], 1975;
- "Subsidiary" – A company in which another company holds a controlling interest;
- "Price" – Including linkage differentials based on an index or a foreign exchange rate, interest, installments and any other terms of payment collection;
- "Corporate Merger" – Including the acquisition of most of the assets of a company by another company or the acquisition of shares in a company by another company by which the acquiring company is accorded more than a quarter of the nominal value of the issued share capital, or of the voting power, or the power to appoint more than a quarter of the directors, or participation in more than a quarter of the profits of such company; the acquisition may be direct or indirect or by way of rights accorded by contract;
- "The General Director" – The General Director of the Antitrust Authority appointed in accordance with Section 41;
- "Asset" – Chattels, real property and rights;
- "Business" – Engagement in the production, sale, marketing, acquisition, import or export of an asset and, additionally, engagement in the provision or the receipt of a service;
- "Controlling Interest" – Possession of more than half of one of the following means of control:
 - (1) The right to vote at the general assembly of a company or the parallel body of another corporation;
 - (2) The right to appoint the directors of a corporation;
- "The Minister" – The Minister of Trade and Industry.

Chapter II: Restrictive Arrangement
Part A: Restrictive Arrangement Defined

2. Restrictive Arrangement

(a) A restrictive arrangement is an arrangement entered into by persons conducting business, pursuant to which at least one of the parties restricts itself in a manner likely to prevent or reduce competition in the marketplace between it and the other parties to the arrangement, or any of them, or between it and a person not party to the arrangement.

(b) Without derogating from the generality of the provisions of Subsection (a), an arrangement involving a restraint that relates to one of the following issues shall be deemed to be a restrictive arrangement:

- (1) The price to be demanded, offered or paid;
- (2) The profit to be obtained;
- (3) The allocation of all or part of the market, in accordance with the location of the business or in accordance with the persons or type of persons with whom business is to be conducted;
- (4) The quantity, quality or type of assets or services in the business.

3. Arrangements Which are not Restrictive

Notwithstanding the provisions of Section 2, the following arrangements shall not be deemed restrictive arrangements:

- (1) An arrangement involving restraints, all of which are established by law;
- (2) An arrangement involving restraints, all of which relate to the right to use any of the following assets: patents, service marks, trademarks, copyrights, performers' rights or developers' rights, provided that the following two conditions are met:
 - (a) The arrangement is entered into by the holder of the above asset and the party receiving the right to use the above asset;
 - (b) If the above asset is subject to registration by law – it is so registered.
- (3) An arrangement entered into by a person assigning a right to real property and a person acquiring such right, involving restraints, all of which relate to the types of assets or services which the acquirer of the right is to engage in on such property;
- (4) An arrangement involving restraints, all of which relate to the growing or marketing of domestic agricultural produce of the following kinds: fruits, vegetables, field crops, milk, eggs, honey, cattle, sheep, poultry or fish, provided that all parties thereto are growers or wholesale marketers of such produce; the above provision shall not apply to assets manufactured from such agricultural produce; the Minister, with the consent of the Minister of Agriculture and the ratification of the Knesset's Economic Affairs Committee, may, by order, add or delete types of agricultural produce;
- (5) An arrangement entered into by a company and its subsidiary;
- (6) An arrangement entered into by the purchaser of an asset or service and its supplier, involving restraints, all of which constitute a commitment of the supplier not to supply certain assets or services for marketing other than to the purchaser, and a commitment of the purchaser to purchase such assets or services only from the supplier, provided that both the supplier and the purchaser are not engaged in the production of such assets or the

provision of such services; such an arrangement may apply to the entire area of the country or to a part thereof;

(7) An arrangement involving restraints, all of which relate to international air or sea transportation, or combined sea, air and ground transportation, provided that all parties to the arrangement are –

(1) Sea or air carriers; or,

(2) Sea or air carriers and an international association of sea or air carriers approved for this purpose by the Minister of Transportation; notice of such an association shall be delivered to the Minister of Transportation in such manner as s/he shall determine; the Minister of Transportation shall notify the Knesset's Economic Affairs Committee once a year of such notices;

(8) An obligation of the seller of a business, sold in its entirety, to the purchaser of the business, not to engage in the same type of business, provided that such obligation does not contradict reasonable and acceptable practices;

(9) An arrangement to which a trade union or an employers' association is party, involving restraints, all of which relate to the employment of workers and to working conditions.

3A. Arrangements Between Air Carriers

(a) Notwithstanding the provisions of Subsection 3(7), an arrangement pursuant to that subsection shall be deemed to be restrictive, if one of the following provisions articulated in Sections (1)-(3) applies to it:

(1) the parties to the arrangement are Israeli air carriers;

(2) the parties to the arrangement are air carriers whereby at least one of whom is an Israeli carrier and at least one is not; or

(3) the following two conditions are met:

(a) the parties to the arrangement are non-Israeli air carriers and at least one of them establishes an operation or has a representation in Israel;

(b) one of the main issues of the arrangement is air transportation to or from Israel, involving restraints, which relate to the operation in Israel or the lack thereof of one of the parties to the arrangement;

(b) the provisions of Subsections (a)(2) or (3) shall not apply to an arrangement pursuant to any of them if the arrangement was approved by the Ministers of Foreign Affairs and Transportation, in a reasoned decision, for reasons of preventing actual harm to Israel's foreign relations, including Israel's economic-commercial relations, or in order to guarantee the continuity of flight rights between Israel and other countries; such approval will be given pursuant to a consultation with the Minister of Finance and subsequent to the acceptance of the General Director's position in the matter.

Part B: Prohibition of Restrictive Arrangements

4. Prohibition of Restrictive Arrangements

No person shall be party to a restrictive arrangement, in whole or in part, unless such person obtains the Approval of the Tribunal pursuant to Section 9 or a Temporary Permit

pursuant to Section 13 or an Exemption pursuant to Section 14, or if all restraints in the arrangement are exempt in accordance with a block exemption granted pursuant to Section 15A; if the Approval, Temporary Permit, Exemption or block exemption is conditional, they shall be void unless the conditions stipulated therein have been met.

5. Establishment of a Course of Action by an Industry Association

A course of action established by an industry association for its members or some of them, which may eliminate or reduce competition between them, or such course of action which is recommended to them, shall be deemed to be a restrictive arrangement as defined in Section 2, and the industry association and any of its members acting in accordance with such course of action shall be deemed to be party to a restrictive arrangement.

6. Adaptation to a Restrictive Arrangement

Where a person managing a business is aware of the existence of a restrictive arrangement, and adapts his or her actions to such arrangement, in whole or in part, such person shall be deemed to be party to such arrangement.

Part C: Approval and Registration of a Restrictive Arrangement

7. Application for Approval of a Restrictive Arrangement

(a) Any person wishing to enter into a restrictive arrangement shall submit an application to the Tribunal for approval of the restrictive arrangement, in such manner as determined by the regulations, following the registration of a copy of the application pursuant to Subsection (b).

(b) The applicant shall deliver a copy of the application to the General Director; the General Director shall registry the application in the registry kept pursuant to Section 42 and shall publish a notification thereof in the Official Gazette and in two daily newspapers; the details and the means of publication shall be as determined by Regulations.

8. Hearing the General Director and Objections

(a) The General Director shall be summoned before the Tribunal to present his or her position and arguments regarding the application.

(b) Any person likely to be injured by the restrictive arrangement, any industry association, and any consumers' organization may submit a written objection to the Tribunal within thirty days of the publication of the application in the Official Gazette pursuant to Section 7(b), giving the grounds for such objection.

9. The Decision of the Tribunal

The Tribunal shall decide on the approval of a restrictive arrangement, in whole or in part, if it believes that such arrangement is in the public interest, and it may stipulate conditions for its approval.

10. Considerations of the Public Interest

When considering the public interest for the purposes of this Chapter, the Tribunal shall take into consideration, *inter alia*, the contribution of the restrictive arrangement to the issues listed below, and whether the arrangement's expected utility to the public is substantially greater than the damage to the public or to any part thereof, or to anyone who is not party to the arrangement; the issues are:

- (1) Efficiency in the production and marketing of assets or services, assurance of their quality, or reduction in their price to the consumer;
- (2) Assurance of a sufficient supply of assets or services to the public;
- (3) Prevention of unfair competition by a person not party to the arrangement, which may result in a reduction in competition for the supply of the assets or services in which the parties to the arrangement are engaged;
- (4) Enabling the parties to the arrangement to obtain the supply of assets or services on reasonable terms from a person who controls a considerable share of the supply of such assets or services, or to supply assets or services on reasonable terms to a person who controls the purchase of a considerable share of the supply of such assets or services;
- (5) Prevention of severe damage to an industry which is important to the national economy;
- (6) Safeguarding the continued existence of factories as a source of employment in areas in which substantial unemployment may be created as the result of their closure or a reduction in their production;
- (7) Improving the balance of payments of the State by reducing imports or reducing the price of imports or by increasing exports and their feasibility.

11. Period of Approval

The Approval issued by the Tribunal shall be for such period as determined by the Tribunal; if the Tribunal does not determine a period, the arrangement shall be deemed approved for the period determined by the parties to the arrangement or for a period of three years, whichever is the earlier.

12. Revocation and Modification of an Approval

- (a) The Tribunal may revoke an Approval issued by it or amend its terms, if it is persuaded, by an application filed by the General Director, that a substantial change has occurred in the circumstances that were in effect at the time the Approval was issued.
- (b) Any person likely to be injured by the restrictive arrangement, any consumers' organization and any industry association believing that a substantial change in the circumstances of an approved arrangement has occurred, may apply to the General

Director and request that s/he exercise his or her authority under Subsection (a); if the General Director decides that the circumstances do not justify the exercise of the above authority, s/he shall so advise the applicant, in writing giving grounds for his or her decision, within thirty days of the date of receipt of the application.

13. Temporary Permit

(a) When an application is submitted for the approval of a restrictive arrangement, the President of the Tribunal may, if the General Director so recommends and if s/he is persuaded that the arrangement is *prima facie* in the public interest, within the meaning of the term under Section 10, issue the parties, upon their request, with a Temporary Permit to act in accordance with the arrangement; such permit shall be in force for a pre-determined period not exceeding one year, or until the final decision of the Tribunal pursuant to Section 9, whichever is the earlier; the President of the Tribunal may stipulate certain conditions for the issuance of the Permit.

(b) The General Director shall give notice of a Temporary Permit issued to any person who files an objection to that arrangement pursuant to Section 8.

(c) The President of the Tribunal may, upon the request of the General Director or of any person who files an objection to the restrictive arrangement, revoke the Temporary Permit issued or amend its terms, provided that the parties to the restrictive arrangement, the General Director and the party requesting the revocation, are given an opportunity to present their arguments.

14. Exemption from Approval

(a) The General Director may, upon the request of any party to a restrictive arrangement and following consultation with the Exemptions and Mergers Advisory Committee pursuant to Section 23 (hereinafter, the "Committee"), by means of a reasoned decision, exempt the parties to the restrictive arrangement from the requirement of obtaining an Approval of the Tribunal, if s/he is persuaded that all of the following conditions are met:

(1) That the restraints in the restrictive arrangement do not reduce competition in a considerable share of the market affected by the arrangement, or that they may reduce competition in a considerable share of the market, but do not result in a substantial harm to competition in such market.

(2) That the objective of the arrangement is not the reduction or elimination of competition, and that the arrangement does not include any restraints which are not necessary in order to fulfill its objectives.

(b) The General Director may, following consultation with the Committee, stipulate conditions for the Exemption, amend its terms or revoke it.

(c) Notification of an Exemption and its terms, amendments to such terms and the revocation of an Exemption shall be delivered to the parties to the arrangement and to the President of the Tribunal and shall be published in the Official Gazette.

(d) If a request for an Exemption is filed regarding an arrangement over which one of the government ministries has jurisdiction, the General Director shall notify the director – general of such ministry of such request and shall not issue his or her decision regarding the request for at least fourteen days of the dispatch of such notification.

(e) A request for an exemption from the requirement of obtaining an Approval of the Tribunal to a restrictive arrangement pursuant to this Section is conditioned upon the payment of a fee, as determined by the Minister and the Minister of Finance; In Regulations pursuant to this Section the Ministers may determine the manner by which the fee will be updated.

14A. The Period for the Issuance of the General Director's Decision

The General Director shall issue his or her decision within 90 days of the receipt of a request pursuant to Section 14, unless s/he decides to extend such period for a further 60 days period, for reasons to be noted; the period elapsing from the time the General Director requests additional information and until such information is received, shall not be taken into consideration.

15. Revocation of an Exemption

(a) Any person who may be injured by a restrictive arrangement which is granted an Exemption pursuant to Section 14, any industry association and any consumers' organization, may appeal to the President of the Tribunal, in writing, giving grounds for such appeal, against the General Directors' decision to grant an Exemption or not to revoke an Exemption granted.

(b) The President of the Tribunal shall revoke such exemption if s/he reaches the conclusion that the restrictive arrangement does not comply with the conditions set forth in Section 14(a); the revocation shall take effect from the time stipulated by the President of the Tribunal.

(c) The decision of the President of the Tribunal shall not be issued until the parties to the restrictive arrangement and the General Director are given an opportunity to present their arguments.

15A. Block Exemption

(a) The General Director may, with the ratification of the Committee, establish guidelines regarding types of restrictive arrangements which parties to shall be exempt from applying for the Tribunal's Approval (hereinafter, "Block Exemption Rules"), provided that all of the following conditions are met:

(1) The restraints in the restrictive arrangement do not reduce competition in a considerable share of the market affected by the arrangement, or that they may reduce competition in a considerable share of the market, but do not result in a substantial harm to competition in such market.

(2) The objective of the arrangements is not the reduction or elimination of competition, and that the arrangements do not include any restraints which are not necessary in order to fulfill their objectives.

(b) The General Director shall publish a notification, in two daily newspapers, of his or her intention to submit Block Exemption Rules to the Committee for ratification, at least 60 days prior to such submission, and shall make such Rules available for public scrutiny.

(c) In the case any objections are received from the public regarding the Block

Exemption Rules, the General Director, when submitting the Block Exemption Rules to the Committee for ratification, shall give a detailed response to such objections.

(d) In the case the Committee ratifies the Block Exemption Rules, the General Director shall submit them to the Minister for signature; the Minister shall sign the Block Exemption Rules unless s/he believes, on exceptional grounds, that they should not be ratified.

(e) The Block Exemption Rules shall remain in force for a period of five years, unless a shorter period is provided by the Block Exemption Rules.

(f) The General Director may, from time to time, with the ratification of the Committee, amend the Block Exemption Rules, or renew them for further periods not exceeding five years each, with or without amendments; the provisions of this Section shall apply, *mutatis mutandis*, to the amendment and renewal of Block Exemption Rules.

(g) The General Director may determine that an exemption granted pursuant to Block Exemption Rules shall not apply to a specific restrictive arrangement, commencing as of such date as the General Director shall determine, and may direct the parties to such arrangement to apply for a Tribunal Approval pursuant to Section 9; the provisions of Section 43(b) to (e) shall apply to such determination.

16. Changes in a Restrictive Arrangement

(a) A material change in a restrictive arrangement approved by the Tribunal or an arrangement with respect to which a Temporary Permit was issued pursuant to Section 13 or an arrangement with respect to which an Exemption was granted pursuant to Section 14, shall be deemed to be a new restrictive arrangement, requiring application for an Approval pursuant to Section 7, within thirty days of the date of such change.

(b) The parties to such a restrictive arrangement shall notify the General Director of any change therein that, in their opinion, is not a material change; if the General Director believes that the change is material, s/he shall apply to the President of the Tribunal to rule on the matter.

(c) In this Section "change" – Including the addition of a party to an arrangement or the removal of a party therefrom.

Chapter III: Corporate Merger

Part A: Application and Prohibition of Merger

17. Application

(a) The provisions of this Chapter shall apply to a corporate merger in any of the following instances:

(1) As a result of the merger, the market share of the merging companies in the production, sale, marketing or purchase of a particular asset and a Similar asset or in the provision of a particular service and a similar service, would exceed fifty percent, or such lower market share as the Minister shall determine with regard to a monopoly, pursuant to Section 26(c);

(2) The combined sales turnover of the merging companies, in the fiscal year preceding the merger, exceeded NIS 50 million; the Minister may, with the

- ratification of the Knesset's Economic Affairs Committee, amend the above amount;
- (3) One of the merging companies is a monopoly within the meaning of the term under Section 26.
- (b) (1) The amount stated in Subsection (a)(2) shall be updated annually on January 1 (hereinafter, "the Update Day"), according to the rate of the increase in the index compared to the base index, provided that the aforesaid rate of increase of the index shall exceed ten percent.
- (2) The amount so updated shall be rounded off to the nearest amount constituting a multiple of 10,000 NIS.
- (3) The updated amount shall come into effect on the date of its publication by the Minister in the Official Gazette.
- (4) In this Section –
- "Index" – The Consumer Price Index published by the Central Bureau of Statistics;
- "The New Index" – The index last published prior to the update day;
- "The Base Index" – The last published index prior to the previous update day and, for the purpose of the first Update Day following the commencement of the application of this Law – the Index published in October 1988.
- (c) The Minister, with the ratification of the Knesset's Economic Affairs Committee, may, by regulations, establish the manner of determining the market share of a company, as provided by Subsection (a)(1), and its sales turnover as provided by Subsection (a)(2).
- (d) In this Section –
- "Similar Asset" – An asset of similar characteristics even if not identical in all respects;
- "Similar Service" – A service of similar characteristics even though not identical in all respects.

18. Merger with a Company Engaged in Business Overseas

In the case of a merger with a company conducting business both in Israel and overseas, the provisions of this Section shall apply solely with respect to the sales turnover of the company within Israel and with respect to the company's market share in Israel in the production, sale, purchase and marketing of an asset or the provision or receipt of a service.

Part B: Pre-Merger Notification and Consent of the General Director

19. Prohibition of the Corporate Merger

Companies may not merge unless a Pre-Merger Notification is issued and the consent of the General Director to the merger is obtained and, if such consent is conditional – in accordance with such conditions, all as provided in this part.

20. Premerger Notification

- (a) Each of the companies intending to merge shall give the General Director notice

thereof, providing such details as shall be determined by Regulations (hereinafter, "Premerger Notification Form"); the General Director may request further information if s/he deems it necessary for the examination of the application.

(b) Within thirty days of the date on which the premerger notification form is received from all of the companies seeking to merge, the General Director shall notify such companies of his or her decision as to whether to consent or object to the merger and whether any conditions are stipulated therefor, and such conditions shall be provided in this notice; failure to give such notice within the thirty days provided shall be deemed to constitute a notice of consent, unless the provided period is extended pursuant to Section 38.

(c) In the case that a premerger notification form is delivered to the General Director and the sphere of activity of the companies seeking to merge comes under the jurisdiction of one of the government ministries, the General Director shall forward a copy of the application to the director – general of such ministry.

(d) Submitting a premerger notification form to the General Director pursuant to this Section is conditioned with the payment of a fee, as determined by the Minister and the Minister of Finance; in the regulations pursuant to this Section the Ministers may determine the manner by which the fee will be updated.

21. The General Director's Decision

(a) The General Director shall object to a merger or stipulate conditions for it, if s/he finds that there is a reasonable likelihood that, as a result of the merger as proposed, competition in the relevant sector would be significantly harmed or that the public would be injured in one of the following regards:

- (1) The price level of an asset or a service;
- (2) Low quality of an asset or of a service;
- (3) The quantity of the asset or the scope of the service supplied, or the constancy and conditions of such supply.

(b) The General Director shall publish a notice of his or her decision to consent to a merger, to object to it or to stipulate conditions for his or her consent, in the Official Gazette and in two daily newspapers.

22. Appeal against a General Director's Decision

(a) In the case that the General Director objects to a corporate merger or stipulates conditions for his or her consent, each of the companies seeking to merge may appeal to the Tribunal, within thirty days of the date on which the General Director's decision is received.

(b) In the case that the General Director consents to a corporate merger, whether conditionally or unconditionally, any person who may be injured by the merger, any industry association and any consumers' organization, may appeal to the Tribunal against the General Director's decision, within thirty days of the date on which the General Director's decision is published in two daily newspapers.

(c) The Tribunal may reaffirm the General Director's decision, revoke it or amend it.

(d) The filing of an appeal pursuant to Subsection (b) shall not cause the merger to be

delayed, unless an order is issued pursuant to Section 36.

23. The Exemptions and Mergers Advisory Committee

- (a) An Exemptions and Mergers Advisory Committee shall be established.
- (b) The Minister shall designate five members who shall be civil servants possessing expertise and knowledge in economics, accountancy, business administration or law (hereinafter for the purposes of this Section, "the Committee's Fields of Expertise"), and eight members who shall be representatives of the public, among whom –
 - (1) Four members shall be highly reputed researchers and teachers in the Committee's fields of expertise;
 - (2) Four shall be members of the general public possessing academic degrees in the Committee's fields of expertise, and having knowledge and experience of at least seven years in the above mentioned fields.
- (c) The Minister shall appoint a chairperson to the Committee from among its public representative members; a notification of the appointment of the Committee's chairperson and members shall be published in the Official Gazette.
- (d) The chairperson of the Committee shall designate the Committee's panel from amongst its members, as follows:
 - (1) For the purposes of the ratification of Block Exemption Rules – seven members, four of whom shall be designated representatives of the public, including the chairperson of the Committee, who shall be the chairperson of the panel;
 - (2) For the purposes of a premerger notification and a request for an Exemption pursuant to Section 14 – three members, two of whom shall be designated representatives of the public, of whom one shall be appointed by him or her to be the chairperson of the panel.
- (e) The chairperson of the Committee may designate sub-committees from amongst the members of the Committee for the purposes of fulfilling the Committee's tasks.
- (f) In the case any objections are received from the public regarding Block Exemption Rules pursuant to Section 15A(c), they shall be brought before the Committee or before a sub-committee designated by the chairperson of the Committee; if a sub-committee is designated, as aforesaid, its findings and recommendations shall be brought before the members of the panel at least seven days prior to the date set for deliberations regarding the ratification of the Rules.

23A. Conflict of Interests

- (a) No person shall be a member of the Committee, if s/he would be likely to find himself or herself regularly, directly or indirectly, in a conflict of interests between his or her position as a member of the Committee and another interest that s/he has, or that his or her relative has, or that a corporation in which either s/he or his or her relative are interested parties has;
For the purpose of this Section –
"Relative" – Spouse or parent, or the offspring of either of the above, and any dependent person.

"Interested party" – Within its meaning in the Securities Law, 1968.

(b) Any Committee member likely to find himself or herself in a conflict of interests, directly or indirectly, regarding any matter to be deliberated by a panel of the Committee, shall so notify the chairperson of the Committee, as soon as s/he learns of such conflict, and shall not participate in any deliberations regarding such matter.

23B. Procedure

(a) The requisite quorum for the Committee's sessions shall be a majority of its members.

(b) The Committee's decisions shall be carried by a vote of the majority of the members present; in the case of an equal division of the votes, the chairperson shall cast a decisive vote.

(c) A minutes shall be kept of the Committee's sessions recording the documents brought before the Committee and the decisions taken; during sessions regarding the ratification of Block Exemption Rules, a summary of the discussion shall be made; the minutes shall be open to the public.

(d) The General Director shall be invited to attend every session of the Committee.

(e) The chairperson shall determine the Committee's procedures to the extent not provided for by this Section.

(f) The continued existence of the Committee, its authority and the validity of its decisions shall not be prejudiced as a result of a vacancy in its membership.

23C. Committee Members Who Are Not Civil Servants

Committee members who are not civil servants, shall be deemed to be civil servants for the purposes of the following Statutes:

(1) Public Service (Gifts) Law, 1979 ;

(2) Penal Law, 1977, regarding the provisions applicable to civil servants ;

(3) Torts Ordinance [New Version] .

23D. Termination and Cessation of Service

(a) The members of the Committee shall be appointed for a term of three years. They may be re-appointed, provided that they do not serve for no more that three consecutive terms.

(b) A person shall cease to serve as a member prior to the termination of his or her term, if one of the following occurs:

(1) The member resigns by delivering a letter of resignation to the chairperson;

(2) The member becomes permanently unable to fulfill his or her duties, and the Minister, with the Chairperson's consent, terminates his or her membership by a written notice;

(3) The member is convicted of a crime, which due its nature, severity or circumstances, renders him or her unsuitable to be a Committee member;

(4) The circumstances which originally rendered such member eligible for membership cease to exist.

(c) In the case that a member is indicted, and the Minister is of the opinion that the

provisions of Subsection (b)(3) are *prima facie* fulfilled, the Minister may suspend his or her membership until a final verdict on the matter is reached.

24. Obligation to Consult

- (a) The General Director shall not consent to a corporate merger, conditionally or unconditionally, except following consultation with the Committee.
- (b) The General Director shall provide the chairperson of the Committee with a copy of every premerger notification form, immediately upon its receipt.

Part C: Divestiture of Companies

25. The Authority of the Tribunal to divest Merged Companies

- (a) In the case that, pursuant to an application of the General Director, the Tribunal believes that there is a reasonable likelihood that, as a result of a corporate merger made contrary to the provisions of this Law, competition in the relevant sector would be significantly harmed or that the public would be injured as provided in Section 21, it may order the divestiture of the merged companies.
- (b) The divestiture of merged companies shall take place by means of restoring the situation to its former state, or by means of transferring some of the shares to an unrelated body, of such companies' choosing, or by means of the establishment of another company to which some of the assets of such companies would be transferred, or by any other means as the Tribunal sees fit.
- (c) In the case that the sphere of activity of the company comes under the jurisdiction of one of the government ministries, the General Director shall forward a copy of the application to the Director General of such ministry.
- (d) The provisions of this Section shall not detract from the provisions of Section 31.

Chapter IV: Monopoly

26. Monopoly and Monopolist

- (a) For the purposes of this Law, the concentration of more than half of the total supply or acquisition of an asset, or more than half of the total provision or acquisition of a service, in the hands of one person (hereinafter, "Monopolist") shall be deemed to be a monopoly. The General Director shall declare the existence of a monopoly by notice in the Official Gazette; the provisions of Section 43(b) to (e) shall apply to such Declaration, as if it were a Determination pursuant to Section 43(a).
- (b) Monopoly can be specific to a particular region.
- (c) The Minister may, pursuant to the General Director's recommendation, determine that, with respect to certain assets or to certain services, a concentration lower than one half shall be deemed to be a monopoly, if s/he believes that a person holding such concentration has a decisive impact in the market relevant to such assets or services.
- (d) In the case that the concentration provided in Subsection (a) or determined pursuant to Subsection (c) is held by two or more persons, who are not in competition or are only in

slight competition (hereinafter, "Concentration Group"), the concentration shall be deemed to be a monopoly and the Concentration Group shall be deemed to be a monopolist, if the General Director so determines pursuant to Section 43(a)(4).

(e) Once every six months, the General Director shall give the Knesset's Economic Affairs Committee a list of all monopolists.

(f) For the purposes of this Section "person" – Including a company and its subsidiaries, or the subsidiaries of one company, or a person and a company in which s/he holds a controlling interest.

27. Restrictions Applicable to a Monopolist

(a) The General Director may –

(1) Stipulate in writing that a monopolist contracting or intending to contract with customers or suppliers by means of a standard terms contract, within the meaning of the term under the Contracts of Adhesion Law, 1982, shall submit an application for approval of the contract pursuant to Chapter III of the said Law; in the event that the monopolist does not submit such application within the period stipulated, it shall be precluded from contracting with its customers or suppliers by means of such standard terms contract;

(2) Stipulate that a monopoly manufacturing or importing an asset, or providing a service, the specifications of which are established by a standard in accordance with the Standards Law, 1953, shall not manufacture, import or sell the asset nor provide the service unless it conforms to the requirements of the standard.

28. Appeal Against Restriction of a Monopoly

A monopolist may appeal to the Tribunal against a stipulation of the General Director pursuant to Section 27, within thirty days of receipt of such stipulation; the filing of an appeal shall not cause the implementation of the General Director's stipulation to be delayed, unless the Tribunal otherwise determines.

29. Unreasonable Refusal

A monopoly may not unreasonably refuse to provide or purchase an asset or a service over which the monopoly exists.

29A. Abuse of Position

(a) A monopoly shall not abuse its position in the market in a manner which might reduce competition in the marketplace or injure the public.

(b) A monopoly shall be deemed to be abusing its position in the market in a manner which might reduce competition in the marketplace or injure the public, in each of the following instances:

(1) The establishment of an unfair buying or selling price of an asset or a service over which a monopoly exists;

(2) A reduction or increase in the quantity of the assets or the scope of the

services offered by the monopoly, not within the context of fair competitive activity;

(3) The establishment of different contractual conditions for similar transactions in a manner which is likely to grant certain customers or suppliers with an unfair advantage vis-à-vis their competitors;

(4) The inclusion in a contract regarding an asset or an service over which a monopoly exists of conditions that, by their nature or according to accepted trading practices, are unrelated to the subject matter of the contract.

The provisions of this subsection are supplementary to the provisions of subsection (a).

30. Regulation of Monopolistic Activities

(a) In the case that the General Director believes that competition in the marketplace or the public is being prejudiced as a result of the existence of a monopoly or the behavior of a monopolist, s/he may give the monopolist instructions regarding the measures to be taken by the monopolist in order to prevent such prejudice.

(b) In the case that the General Director believes that a risk of substantial harm to competition in the marketplace or to the public exists as a result of the behavior of a monopoly, s/he may give the monopoly instructions regarding the measures to be taken by the monopoly in order to prevent such prejudice.

(c) Any harm relating to one of the following shall be deemed to be harmful to competition in the marketplace or to the public:

- (1) The price of an asset or a service;
- (2) The quality of an asset or a service;
- (3) The quantity of the assets or the scope of the service;
- (4) The supply of the asset or the service, and the constancy and conditions of such supply;
- (5) Fair business competition;

The provisions of this subsection are supplementary to the provisions of Subsections (a) and (b).

(d) The General Director shall publish his or her intention to give instructions pursuant to this Section in two daily newspapers, at least 14 days in advance, and shall make such instructions available to public scrutiny.

(e) The General Director shall deliver the instructions to the monopoly and shall publish the fact of their delivery in two daily newspapers; the instructions given shall be included in the Registry of Monopolies pursuant to Section 42; in the case that the General Director believes that the public interest requires the publication of the text of the instructions, s/he shall so publish them in newspapers as aforesaid.

(f) The monopoly to whom the General Director's instructions were delivered, any consumers' organization and any other person injured by such instructions, may file a written objection to the General Director's instructions with the Tribunal, detailing the grounds for such objection, within 30 days of the date of publication of the fact of delivery of such instructions pursuant to Subsection (e); after hearing the parties, the Tribunal may reaffirm, revoke or amend the General Director's instructions.

(g) The General Director's instructions shall enter into force 30 days following the date

of publication as provided by Subsection (e); in the case that a monopoly files an objection to the instructions, they shall be suspended pending the decision, or any other date provided by the Tribunal.

(h) The provisions of this Section are supplementary to the provisions of Section 36.

31. Breaking-Up of a Monopoly

(a) In the case that the Tribunal considers, following an application by the General Director, that the public is substantially harmed, whether in a manner provided by Section 30 or in any other way, as the result of the existence of a monopoly, and that such harm cannot efficiently be avoided by regulating the activities of the monopoly pursuant to Section 30, but may only be achieved by breaking up the monopoly into two or more distinct business entities, it may order the breaking up of the monopoly.

(b) The breaking up of a monopoly shall take place by means of transferring some of the shares to an unrelated body, of the monopoly's choosing, or by means of the establishment of another company to which some of the assets of the monopoly would be transferred, or by any other means as the Tribunal sees fit.

(c) In the case that the sphere of activity of the monopoly comes under the jurisdiction of one of the government ministries, the General Director shall forward a copy of his or her application to the director – general of such ministry.

Chapter V: The Antitrust Tribunal

32. Establishment of the Tribunal and Appointment of its Members

(a) An Antitrust Tribunal is hereby established.

(b) The number of members of the Tribunal shall not exceed seventeen.

(c) The President of the Tribunal and his or her Deputy shall be district court judges and shall be appointed by the Minister of Justice in consultation with the President of the Supreme Court.

(c1) Should the President of the Tribunal or his or her Deputy be unable to fulfill their duties for a period not exceeding one year, the Minister of Justice may, in consultation with the President of the Supreme Court, appoint a substitute, who shall be a district court judge, for the above period or any part thereof.

(d) The other members of the Tribunal shall be appointed by the Minister of Justice, upon the recommendation of the Minister, and shall include at least three representatives of consumers' organizations and three representatives of economic organizations; the number of civil servant members shall not exceed a third of all members.

(e) The term of office of each member of the Tribunal shall be three years; a member whose term of office terminates may be re-appointed, provided that no member, other than the President of the Tribunal or his or her deputy, may serve for more than three consecutive terms of office.

(f) Notice regarding the appointment of members to the Tribunal shall be published in the Official Gazette.

33. The Tribunal Panel

The Tribunal shall adjudicate in a panel of three judges, except that a judge adjudicating a preliminary hearing may provide that proceedings shall take place before a single judge, provided that it is the President of the Tribunal or his or her Deputy; the decision to hold the proceedings before a sole adjudicator shall not be issued until the parties are given an opportunity to present their arguments.

34. Conflict of Interests

(a) Any person whose interests are likely to create a conflict of interests with his or her position as a member of a Tribunal panel in a particular proceeding, or who has a personal interest in such proceedings – shall not sit as a member of the panel adjudicating such proceedings, and shall so notify the President of the Tribunal.

(b) In the case that a panel member is unsure whether a conflict of interests might develop, s/he shall so inform the President of the Tribunal.

35. Auxiliary Authorities

In the case that the Tribunal issues a decision regarding a restrictive trade practice, it may, whether as part of such decision or by another decision, issue any order it deems necessary in order to ensure that such decision is implemented.

36. Interim Rulings

In any matter brought before the Tribunal or before the President of the Tribunal, the Tribunal or the President of the Tribunal may issue an interim ruling, if is deemed appropriate in the circumstances.

37. Evidence and Procedure

(a) The Tribunal and the President of the Tribunal shall not be bound by the laws of evidence, other than such laws regarding immunity of witnesses and privileged evidence, as provided by Chapter III of the Evidence Ordinance [New Version] 1971.

(b) For the purposes of summoning witnesses and taking evidence, the President of the Tribunal shall be deemed to have such authorities as a district court judge in a civil matter; and, for the purposes of the execution of orders and of contempt of court, an order of the Tribunal shall be deemed to be an order of a district court in a civil matter.

38. Extension

The President of the Tribunal may, upon the request of the General Director or an interested party, extend any period set in accordance with this Law, even if previously elapsed, if s/he believes there are exceptional grounds to do so.

39. Right of Appeal

Any litigant injured by a decision of the Tribunal, including a decision made pursuant to Section 30, an interim ruling or a Temporary Permit issued by the President of the Tribunal pursuant to Section 13, may appeal against such decision to the Supreme Court within forty five days of the date on which s/he receives notice thereof; any appeal against an interim ruling, an appellate decision of the Tribunal pursuant to Section 43 or a Temporary Permit, shall be heard by a single judge, unless the President of the Supreme Court otherwise determines.

40. Procedures

- (a) The Tribunal and the President of the Tribunal shall adjudicate in accordance with such procedures as the Minister of Justice shall establish by regulations pursuant to Subsection (b); in the absence of such procedures, they shall adjudicate in a manner deemed most effective for a just and expedited resolution.
- (b) The Minister of Justice may issue procedural regulations –
 - (1) Regarding proceedings before the Tribunal or the President of the Tribunal, including provisions regarding –
 - (a) Which persons and organizations would be entitled to present arguments on behalf of a litigant or to be respondents or to be heard prior to the issuance of a decision;
 - (b) The continuity of deliberations;
 - (c) Adjudication relating to costs, legal fees and witnesses' time;
 - (d) Court fees.
 - (2) Regarding proceedings before the Supreme Court on appeals pursuant to Section 39.

Chapter VI: The Antitrust Authority and the General Director, His or Her Functions and Authorities

41. The General Director

- (a) The Government shall appoint the General Director of the Antitrust Authority, upon the recommendation of the Minister; the General Director shall be a civil servant.
- (b) Notification of such appointment shall be published in the Official Gazette.

41A. The Antitrust Authority

- (a) The Antitrust Authority is hereby established (hereinafter, "the Authority").
- (b) The General Director shall be the Director of the Authority.
- (c) The budget of the Authority shall be provided by the Budget Law in a separate budgetary line, within the meaning of this term in the Foundations of the Budget Law, 1985. The administrator of such budgetary line, for the purposes of the said Law, shall be the General Director.
- (d) The Director of the Authority shall be authorized, in conjunction with the accountant of the Authority, to represent the Government in transactions as provided by Sections 4 and 5 of the State Assets Law, 1951, other than transactions for the purpose of the

implementation of this Law involving real property, and to sign documents in the name of the State regarding such transactions.

41B. Authority Employees

(a) The employees of the Authority shall be civil servants and shall be subject to the Civil Service (Appointments) Law, 1959 ; however, the General Director shall be authorized, together with the accountant of the Authority and with the consent of the Minister, to represent the State in making special contracts with employees.

(b) The employees of the Authority shall act in accordance with the instructions of the General Director and shall work under his or her supervision.

42. Maintenance of a Registry and Publications in the Official Gazette

(a) The General Director shall keep a registry of applications of restrictive arrangements and of restrictive arrangements approved, a registry of temporary permits issued, a registry of exemptions granted pursuant to Section 14, a registry of corporate mergers for which the approval of the General Director or the Tribunal was issued, and a registry of monopolies.

(b) The registry shall be open to public review; the Tribunal may, however, instruct that a particular matter shall not be open to public scrutiny if it believes such action is necessary in the interests of state security, foreign relations or some other vital interest, including the interest of a party in a trade secret.

(c) The General Director shall publish a notice in the Official Gazette regarding decisions of the Tribunal and regarding appellate decisions thereof of the Supreme Court, in the following matters:

- (1) Approval of a restrictive arrangement pursuant to Section 9;
- (2) An appellate decision regarding a corporate merger pursuant to Section 22;
- (3) Instructions to a monopoly pursuant to Section 30.¹

43. The General Director's Determination

(a) The General Director may determine whether –

- (1) An arrangement, or an arrangement which the parties seek to reach, constitutes a restrictive arrangement;
- (2) A course of action established or recommended by an industry association or which an industry association seeks to establish or to recommend constitutes a restrictive arrangement;
- (3) The conditions provided by Section 17 are satisfied by a corporate merger;
- (4) A Concentration Group constitutes a monopoly;
- (5) A monopoly has abused its position in the market pursuant to the provisions of Section 29A.

(b) Notice regarding a determination of the General Director shall be delivered to the parties to a restrictive arrangement, to the parties to a corporate merger and to a

¹ This subsection shall be revised based on the transfer under the 1988 Amendment of the Tribunal's power pursuant to Section 30 to the General Director.

monopoly, as applicable, and may be published in the Official Gazette; in the case that the General Director believes that the public interest necessitates publication, s/he shall publish his or her determination in the Official Gazette and in two daily newspapers, thirty days following the delivery of the notice.

(c) Any person receiving a notification pursuant to Subsection (b), who is opposed to the determination or any part thereof, may appeal to the Tribunal within thirty days of the date of delivery of such notice. The burden of proof before the Tribunal shall rest with the appellant.

(d) The Tribunal, after having heard the parties, may re-affirm, revoke or amend the General Director's Determination.

(e) The General Director's Determination shall constitute *prima facie* proof of its subject matter in any legal procedure.

(f) The General Director's exercise of his or her authority pursuant to this Section, or his or her failure to exercise it, shall not constitute an impediment to commence legal action against any person who violates the provisions of this Law.

43A. Pre-Ruling Opinion

The General Director may issue pre-ruling opinions and may provide and publish procedures for the issuance of such opinions; the provisions of this Section shall not be construed as detracting from the General Director's discretion whether to give a pre-ruling opinion, and, for this purpose, the General Director may take into consideration the circumstances of each case and the Authority's priorities in its actions.

44. The General Director's Application to the Tribunal

The General Director shall apply to the Tribunal to exercise its authorities pursuant to Sections 25, 30 or 31, as applicable, if s/he believes that –

(1) There is a reasonable likelihood that, as a result of a corporate merger entered into contrary to the provisions of this Law, competition in that sector, or the public, may be substantially injured in a manner provided by Section 21(a);

(2) As a result of the existence of a monopoly, the public is injured in a manner provided by Section 30(1) to (4);²

(3) The injury referred to in Subsection (2) cannot be avoided by regulation of the monopoly but only by its breaking up as provided by Section 31.

45. Search and Seizure

(a) The General Director, or any person authorized by him or her from amongst the civil servants, may, if s/he has reasonable grounds to believe that it is necessary in order to ensure the implementation of this Law or to prevent its violation –

(1) Enter into any business premises and search there; however, entry into residential premises will be only in accordance with a search warrant handed down by a court of competent jurisdiction; the provisions of Sections 26 to 29 of

² This subsection shall be revised based on the transfer under the 1988 Amendment of the Tribunal's power pursuant to Section 30 to the General Director.

- the Criminal Procedure Ordinance (Arrest and Search) [New Version], 1969, shall apply, *mutatis mutandis*, to a search pursuant to this subsection;
- (2) Seize any article, as defined in the said Ordinance, if s/he has reasonable grounds to believe that it may serve as evidence in a hearing of an offense;
- (b) Any article seized pursuant to Subsection (a) may be held until the court determines, where an indictment of an offense related to such article is filed, how it shall be disposed of, and, if no indictment is filed – until the Tribunal or the court, where an application related to such article is filed, determines how it shall be disposed of; if no indictment is filed within six months of the date of seizure – the article shall be returned; if an uncertainty arises as to whom it should be returned to, the matter shall be determined by the magistrates` court having jurisdiction over the area where the article was seized, upon the request of any person claiming a right to such article, or upon the request of the General Director, or upon the request of any person authorized by him or her for such purpose.
- (b1) A magistrates court may, upon the request of the General Director, extend the period provided by Subsection (b) by additional periods, and it may stipulate conditions for such extension.
- (c)
- (1) In this Law, "Document" – Including computer material within the meaning of the term in the Computers Law, 1995 ;
- (2) In the case of a seizure of a person`s document, pursuant to Subsection (a), the holder shall allow, upon such person`s request, a copy of the document to be made;
- (3) The General Director may refuse a request pursuant to Subsection (2) for a period of three months from the date of seizure, if s/he believes that making such a copy may disrupt an investigation regarding a violation of this Law.
- (4) A magistrates` court may, upon a request of the General Director, extend the period provided by paragraph (3) by additional periods, and it may stipulate conditions for such extension.
- (c1) The person whose document is seized may appeal against the General Director`s decision pursuant to Subsection (c) to a Magistrates` Court.
- (d) The party holding an article seized pursuant to Subsection (a) shall treat such article as if it were its owner; if it does not do so and the article is destroyed or damaged, the owner shall be compensated by the State Treasury.
- (e) The Magistrates` Court having jurisdiction over the area where the article was seized may, upon the request of the General Director, or upon the request of any person authorized by him or her for such purpose, or upon the request of any person claiming a right to such article, provide that the article be handed over to the person claiming a right thereto or to any other person or that it be otherwise disposed of as the Court shall see fit, all being subject to such conditions as it shall stipulate.

45A. Appointment of an Investigator

The General Director shall not authorize an investigator pursuant to Section 46(a), unless

s/he is a civil servant and fulfills the following two conditions:

- (1) The Israel Police does not give a notification, within a month of the Authority's approach, of its objection to such authorization for reasons of public safety;
- (2) S/he receives appropriate training, as determined by the General Director and the Israel Police.

46. Investigations and Provision of Information

(a) In the case that a suspicion arises that a violation of this Law has been committed, or in the case that, during an investigation of a violation of this Law, a suspicion arises that a violation of Sections 242, 244, 245, 247 or 249 of the Penal Law, 1977 has been committed, the General Director, or any person authorized by him or her for such purpose (hereinafter, "Investigator"), may investigate any person related to such violation, or any person who may have information regarding such violation, and to order any such person to report to him or her for an investigation, to accompany him or her for an investigation and to provide him or her with any detail, document or information relevant to such violation; Sections 2 and 3 of the Criminal Procedure (Testimony) Ordinance shall apply to such investigation.

(b) Any person shall be obliged, upon the order of the General Director or of any person authorized by him or her for such purpose from amongst the civil servants, to provide him or her with all information, documents, ledgers and other certificates which, in the opinion of the General Director, would ensure or facilitate the implementation of this Law.

(c) The provisions of Section 45 shall apply, *mutatis mutandis*, to the holding and returning of certificates provided pursuant to Subsection (b).

(d) With respect to any offense subject to investigation pursuant to Subsection (a), which constitutes an arrestable offense in accordance with the Criminal Procedure (Enforcement Authorities and Arrests) Law, 1996 (hereinafter, "the Arrests Law"), the General Director, the director of the Authority's Investigation Department and his or her deputy, and any other investigators as the General Director may authorize for such purpose, shall have powers of detention, arrest and release pursuant to Sections 23(a)(2), (3), (6), 23(b), (c), 27, 67 – but not including the power to detain a person about to commit an offense; and Section 68 of the Arrests Law and the provisions of Chapter II of the Arrests Law shall apply *mutatis mutandis*.

(e) For the purposes of this Section, the director of the Authority's Investigation Department and his or her deputy shall be deemed to be an "Officer in Charge" within the meaning of the term under the Arrests Law, and the offices of the Authority so declared by an order of the General Director shall be deemed to be a "Police Station", provided that no detainee who is not undergoing an investigation at that time, may be held at the Authority's offices after 20:00; such person must be brought to a police station.

Chapter VII: Class Action – Terminated

Chapter VII: Penalties and Remedies

47. Penalties

(a) Any person committing one of the following:

- (1) Being party to a restrictive arrangement not duly approved, nor issued with a Temporary Permit nor granted an Exemption pursuant to Section 14;
- (2) Not complying with a condition stipulated upon an Approval of a restrictive arrangement or issuance of a Temporary Permit or grant of an Exemption, as may be applicable;
- (3) Not giving notice of a corporate merger or performing an act tantamount to a full or partial merger, contrary to the provisions of Chapter III;
- (4) Not complying with a condition stipulated upon the grant of a consent to a merger;
- (4a) Abusing his or her position in the market pursuant to the provisions of Section 29A, provided that his or her intention to reduce competition in the marketplace or to injure the public is proven;
- (5) Violating instructions given pursuant to Section 30 or an order issued pursuant to Sections 25 or 31;
- (6) Violating an order issued pursuant to Sections 35 or 36;

shall be liable to three years' imprisonment or a fine ten times the fine provided by Section 61(a)(4) of the Penal Law, 1977 (hereinafter, "the Penal Law") and an additional fine ten times the fine provided by Section 61(c) of the Penal Law (hereinafter, "Additional Fine") for each day that such offense persists, and, in the case of an offense as provided by paragraphs (1) or (3) – for each day such offense persists following delivery of the General Director's notice as provided by Section 43; in the case of a corporation, the fine or the additional fine, as applicable, shall be doubled.

(b) Any person violating any other provision of this Law – shall be liable to one year's imprisonment or a fine ten times the fine provided by Section 61(a)(3) of the Penal Law and an additional fine for each day that such offense persists; in the case of a corporation, the fine or the additional fine, as applicable, shall be doubled.

47A. Aggravating Circumstances

Any person committing an offense as provided by Section 47(a) under aggravating circumstances, shall be liable to five years' imprisonment or a fine as provided by the final clause of Section 47(a);

For the purposes of this Section, "Aggravating Circumstances" – circumstances which are liable to cause substantial harm to competition due, *inter alia*, to one or more of the following factors:

- (1) The share and position of the accused in the sector affected by the offense;
- (2) The duration of the offense;
- (3) The damage caused or expected to be caused to the public as a result of the offense;
- (4) The benefits obtained by the accused.

48. Responsibility of a Corporation

In the case that an offense, as provided by this Law, is committed by a corporation, each person serving in such corporation, at the time of the commission of the offense, as an active director, a partner – other than a limited partner – or a senior administrative employee with responsibilities in the relevant field, shall be indicted with such offense, unless s/he can show that the offense was committed without his or her knowledge and that s/he took all reasonable measures to ensure compliance with this Law.

49. Employees and Agents Defense

It shall be a valid defense for an employee or an agent indicted with an offense as provided by this Law, if s/he can show that s/he acted on behalf of his or her employer or his or her client and in accordance with their instructions, and that s/he believed, in good faith, that his or her actions were not tantamount to an offense as provided by this Law.

50. Tort

An act or omission contrary to the provisions of this Law shall constitute a tort in accordance with the Torts Ordinance [New Version].

50A. Restrictive Injunction

The President of the Tribunal, and, in his or her absence, another judge of the Jerusalem District Court, may, upon the request of the General Director, –

- (1) Order any person not to take an action which violates the provisions of this Law, and to give security to such effect;
- (2) Order any action necessary for the prevention of such violation.

50B. Consent Decree

(a) Any Court of competent jurisdiction with regard to offenses as provided by this Law, or the Tribunal (hereinafter in this Section, "the Court") may, upon the request of the General Director and in lieu of proceedings pursuant to Sections 26, 43, 47, 48, or 50A, accord the force of a ruling to a consent agreement reached between the General Director and another person (hereinafter, "Consent Decree"); a Consent Decree may be reached without admission of liability with regard to the period prior to its issuance and may include, *inter alia*, an obligation by a person to pay a sum of money to the State Treasury, and a commitment by such person to take a specific action or to refrain from taking a specific action.

(b) The General Director's request for the grant of a Consent Decree shall detail the grounds for such request, and shall include, *inter alia*, alternatives to the Consent Decree which were considered by the General Director.

(c) A Consent Decree granted by the Court shall, for all intents and purposes, have the force of a District Court ruling.

(d) A request for the grant of a Consent Decree shall only be deliberated by the Court

following:

- (1) Publication by the General Director, at least thirty days prior to the submission of the request, of a notice in two daily newspapers regarding his or her intent to submit a request for the grant of a Consent Decree by the Court; the above notice shall include an invitation to any person who may be injured by the Consent Decree and any consumers' organization or industry association, to bring their objections to the Consent Decree before the General Director;
 - (2) Attachment, by the General Director, of the objections brought before him or her pursuant to Subsection (1), to the request for grant of the Decree, and his or her response to such objections.
- (e) The Court may at any time amend the provisions of the Consent Decree in any of the following instances:
- (1) All parties to the Consent Decree file a consensual request to amend the Decree;
 - (2) The General Director, or the person with whom the General Director enters into the Consent Decree, files a request for the amendment of the Order, and the Court is persuaded that a substantial change in the circumstances has occurred since the Consent Decree was granted;
- The provisions of Subsection (d) shall apply to a request for amendment of a Consent Decree filed pursuant to Subsection (1) or filed by the General Director pursuant to Subsection (2).
- (f) In the case that the Court decides not to grant the Consent Decree, such decree, any matters raised in the proceedings relating thereto, and any document drawn at the request of the General Director by the person with whom the General Director entered into the Consent Decree for the purpose of such proceedings, shall not be admissible as evidence in any other legal proceedings; however, nothing in such refusal to grant a Consent Decree shall be construed as estopping the General Director from instigating further proceedings in accordance with this Law.

50C. Publication of Notice

Any notice to be published in accordance with this Law by the General Director in two daily newspapers, shall be published in at least one Hebrew language daily newspaper with a wide circulation, and in one Arabic language daily or weekly newspaper published in Israel with a wide circulation, and, wherever possible, such notice shall additionally be published on the Authority's internet site.

Chapter VIII: Miscellaneous Provisions

51. Implementation and Regulations

The Minister is responsible for the implementation of this Law and s/he may, with the ratification of the Knesset's Economic Affairs Committee, issue regulations on matters regarding its implementation.

52. Exemption

The Minister may, following consultation with the Knesset's Economic Affairs Committee, exempt a restrictive trade practice from all or some of the provisions of this Law, if s/he believes that such action is necessary on grounds of foreign policy or national security.

53. Revocation

The Restrictive Trade Practices Law, 1959 (hereinafter, "the Old Law") – is hereby revoked.

54. Entry into Force

This Law shall enter into force three months following the date of its publication.

55. Transitional Provisions

(a) A restrictive arrangement approved in accordance with the Old Law or issued a temporary permit in accordance with the Old Law – shall be deemed to have received such approval/permit in accordance with the provisions of this Law.

(b) In the case that the Antitrust Council commences deliberations in accordance with the Old Law prior to entry into force of this Law, it shall complete its deliberations in accordance with the Old Law even after the entry into force of this Law.

56. Publication

This Law shall be published in the Official Gazette within thirty days of being passed.

Yitzhak Shamir
Prime Minister

Ariel Sharon
Minister of Industry and Trade

Haim Herzog
State President