

Committee on Anti-dumping Practices
Committee on Subsidies and Countervailing Measures

Original: English

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

Questions Posed by EGYPT Regarding the Notification of TUNISIA¹

The following communication, dated 4 April 2001, has been received from the Permanent Mission of Egypt

1. Article 3.2 of the WTO A-D Agreement states that "With regard to the volume of the dumped imports, the investigating authorities shall consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in the importing Member ...".

What are the criteria applicable by the Authority in cases of determining the volume of the dumped imports whether in absolute or relative terms and consequently the effect of the dumped imports on prices, especially without the existence of any Articles relating to these topics in the law or the regulation?

2. Article 7 of the Tunisian Law sets out "... A complaint must include evidence of the existence of dumping or subsidy liable to anti-dumping or countervailing duties, of injury or of causal link between the imports allegedly being dumped or subsidized and the alleged injury."

How could the Authority, pursuant to Article 5.2 of the A-D Agreement, verify "prices at which the product is sold when destined for consumption in the country of export and the history of the volume of the allegedly dumped imports" as the law and regulation do not refer to this information?

3. Article 12 in the Tunisian Law states that: "... The Minister responsible for trade shall send a request for information required for the investigation to the authorities of the exporting countries, as well as to the exporters concerned." However, Article 6.1 of the A-D Agreement states that "All interested parties shall be given notice ...".

Please explain how will the Authority notify all of the interested parties referred to in Article 6.11 of the A-D Agreement?

- "A request for information shall be answered within the time limits and in the form specified in the request."

¹ G/ADP/N/1/TUN/2-G/SCM/N/1/TUN/2

- *Please clarify the "specified time limits" to receive the information required for the investigation within the meaning of Article 6.1.1 of the A-D Agreement?*
- "This notice shall indicate the nature of the product and the country or countries concerned and include a summary of the information received" this differs from the text of Article 12.1.1 of the A-D Agreement.

How does the Authority plan to meet the requirement of Article 12.1.1 of the A-D Agreement, as there are no references in the proposed regulation to the rest of the requirements mentioned in the said Article?

4. Article 5.5 of the A-D Agreement states that "... after receipt of a properly documented application and before proceeding to initiate an investigation, the authorities shall notify the government of the exporting Member concerned".

How do the Services plan to implement the provisions of the above-mentioned Article?

6. Article 44 of the proposed Tunisian Law states that "... The importer must submit a request, supported by evidence, to the Minister responsible for trade within six months from the date of assessment of the amount of the definitive duties imposed".

Could the Authority explain what is the legal basis for determining the 6 month period mentioned in this Article and how does the Authority plan to implement the provisions of Article 9.3.2 of the A-D Agreement?

7. Article 45 of the proposed Law states that "No request for reimbursement of definitive anti-dumping duties or definitive countervailing duties shall be deemed to be duly supported by evidence unless it includes accurate details of the amount whose reimbursement is claimed and is accompanied by customs documents relating to the calculation and payment of that amount." Moreover Article 46 of the Law states that "The request for reimbursement must include a statement by the exporter or producer establishing that the margin of dumping or the amount of the subsidy that gave rise to countervailing duties has been reduced or eliminated. Any request that does not include such a statement shall be rejected."

Could the Authority explain the legal basis for the text of these Articles? Please clarify how the provisions of Article 46 are consistent with the Agreements?

8. It is noted that the Tunisian Law and Regulation did not include any text pertaining to the following:

- (a) *Special and preferential treatment of developing countries.*
- (b) *Dispute settlement procedures.*
- (c) *Notifying the WTO Committees on Anti-Dumping and Subsidies with preliminary and final determinations.*

9. Article 20 of the regulation states that: "The examination of the impact of the dumped or subsidized imports on the domestic industry concerned shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry ...". However, Article 3.4 of the A-D Agreement states that "... Evaluation of all the economic factors and indices having a bearing on the state of the industry , including ..., ability to raise capital or investments".

We notice that Article 20 ignored two elements of the factors to be examined by the authorities. This is not consistent with the requirements of Article 3.4 of the A-D Agreement.
