

**NOTIFICATION UNDER ARTICLE 12.1(a) OF THE AGREEMENT
ON SAFEGUARDS ON INITIATION OF AN INVESTIGATION
AND THE REASONS FOR IT**

ARGENTINA

The following communication, dated 5 September 2000, has been received from the Permanent Mission of Argentina.

1. Date of initiation of the investigation

The date of initiation of the investigation was 22 July 2000 (Secretariat of Industry, Trade and Mining Resolution SICM No. 353 of 17 July 2000).

2. Products subject to investigation

The investigation involves mopeds and motorcycles of up to 100 cc cylinder capacity, excluding quadricycles and so-called all-terrain vehicles, by which is meant trial, endurance and motorcross vehicles.

These products are under MERCOSUR tariff headings 8711.10.00 and 8711.20.10.

3. Reasons for initiating the investigation

The investigation was initiated pursuant to a request by the domestic manufacturer ZANELLA HNOS Y CIA SACIFI. From the evidence gathered so far, the implementing authority considers that the applicant represents approximately 70 per cent of the domestic industry in this sector.

The evidence which served as a basis for the initiation of the investigation is as follows:

In order to evaluate whether there has been serious injury caused by imports, the National Foreign Trade Commission carried out an investigation to determine whether there was serious injury in respect of the product in question, the results of which are contained in Directive No. 615 of 10 May 2000. The Directive determined the following:

1. Total domestic production of motorcycles/mopeds fell by 7 per cent in 1996, rose by 18 per cent in 1997, to a maximum of 45,271 units, and fell by 6 per cent in 1988 and 30 per cent in 1999.

2. ZANELLA's production rose by 25 per cent in 1996 and 5 per cent in 1997, the year in which it recorded the maximum number of units of 32,726, and fell in 1998 and 1999 by 7 per cent and 30 per cent, respectively. It should be noted that production in the latter year, 21,375 units, was 14 per cent lower than in 1995.
3. Production of motorcycles/mopeds by other companies fell by 56 per cent in 1996, rose by 75 per cent in 1997 and fell by 3 per cent in 1998 and 29 per cent in 1999, in the latter year reaching the lowest level of 8,625 units, making a fall of 47 per cent between 1995 and 1999.
4. ZANELLA's domestic sales in units rose by 27 per cent in 1996 and 11 per cent in 1997, to a maximum of 31,928 units, and fell by 6 per cent and 29 per cent in 1998 and 1999 respectively, a fall over the period concerned of 6 per cent. Sales by value rose by 28 per cent in 1996 and 18 per cent in 1997 and fell by 20 per cent in 1998 and 34 per cent in 1999, making a 21 per cent fall between 1995 and 1999. This trend meant a fall in average turnover of 17 per cent over the period.
5. The volume of Argentine exports of motorcycles/mopeds fell throughout the period concerned. Starting from 12,068 units in 1995, it fell by 24 per cent in 1996, 19 per cent in 1997, 2 per cent in 1998 and 56 per cent in 1999, an overall fall of 84 per cent for the period. ZANELLA's exports followed a similar pattern as the industry as a whole.
6. ZANELLA's stocks rose by 666 per cent in 1995, 118 per cent in 1996 and 1 per cent in 1997 and fell by 20 per cent and 44 per cent in 1998 and 1999 respectively. The applicant's ratios of stock to production and stock to turnover showed similar values throughout the period analysed, varying by 2 per cent to 3.8 per cent.
7. The applicant's production capacity, which in 1995 was 62,000 units, fell by 11 per cent in 1996, 9 per cent in 1997, 10 per cent in 1998 and 22 per cent in 1999, a total fall of 44 per cent over the period concerned.
8. With respect to the applicant's utilization of its production capacity, this rose between 1995 and 1998, from 40 per cent in 1995 to 68 per cent in 1998, but fell in 1999 to around 61 per cent. The increase in this variable between 1995 and 1998 is due to the fact that the fall in production capacity was greater than that of production.
9. The total number of employees also declined, from 429 in 1995 to 352 in 1996, 314 in 1997, 301 in 1998 and 200 in 1999. The main change was in the production area, where the number of employees fell from 380 in 1995 to 167 in 1999, a reduction of 56 per cent over the period concerned. On the administrative side, the number of employees fell from 49 in 1995 to 33 in 1999, a reduction of 33 per cent between 1995 and 1999.
10. The total wage bill followed a similar pattern to that of employment.
11. Total average monthly salaries fell between 1996 and 1998 (27 per cent, 7 per cent and 6 per cent respectively) and rose in 1999 (40 per cent).
12. Analysis of the sales prices of the motorcycles/mopeds produced by the applicant, calculated as the average sales revenue, shows that current prices rose 1 per cent and 6 per cent in 1996 and 1997 respectively and fell 15 per cent in 1998 and 8 per cent in 1999.

In view of the evidence submitted by the sector involved, the implementing authority finds that this constitutes the circumstances necessary for the initiation of an investigation.

Accordingly, the implementing authority has decided that an investigation should be initiated and has issued resolution SICyM N.353 of 17 July 2000 to that effect (as follows).

Secretariat of Industry, Trade and Mining

Foreign Trade

Resolution 353/2000

Announcing the decision to open a safeguards investigation concerning production of mopeds and motorcycles of up to one hundred cubic centimetres cylinder capacity, under certain tariff headings of the MERCOSUR Common Nomenclature.

Buenos Aires, 17 July 2000

Having regard to File No. 060-001869/2000 of the Registry of the Ministry of the Economy, and

Whereas:

In that file the domestic manufacturer Zanella Hnos y Cia SACIFI requested the opening of an investigation with a view to the application of a safeguard measure concerning the importation of mopeds and motorcycles of up to one hundred cubic centimetres (100 cc) cylinder capacity, under the following tariff headings of the MERCOSUR Common Nomenclature: 8711.10.00 and 8711.20.10.

The National Foreign Trade Commission, a decentralized body under the Secretariat of Industry, Trade and Mining of the Ministry of the Economy, determined in its Directive No. 615 of 10 May 2000 that "the request showed sufficient evidence of serious injury caused by imports to the domestic industry as to satisfy the conditions required by the current legislation for the possible application of provisional measures."

The Under-Secretariat of Industry, Trade and Mining, in the Secretariat of Industry, Trade and Mining of the Ministry of the Economy, in its technical report prepared pursuant to Article 10 of Decree No. 1059 of 19 September 1996, concluded that "throughout the period concerned and especially since 1998, the year when the greatest absolute variation in imports was recorded, domestic production of the product in question lost market share to imports ...".

The Report also stated that "domestic production, after a slight rise in 1997, fell sharply in 1999. However, consumption showed constant and sustained growth between 1996 and 1998, followed by a decline in 1999. Lastly, imports, following the pattern of consumption, rose from 1996 to 1998 and fell slightly in 1999. It was in the latter year, and to a lesser extent in 1998, that a clear substitution of domestic production by imports could be seen."

The existence of a causal relationship between the increased imports and the injury or threat of injury has been established.

In the light of the conclusions of the National Foreign Trade Commission and the technical report by the Under-Secretariat for Industry, Trade and Mining, it is concluded that in view of the factors in the present case, circumstances exist to justify the opening of an investigation with a view

to the application of a safeguards measure concerning the importation of mopeds and motorcycles up to one hundred (100) cubic centimetres cylinder capacity, pursuant to the request by the domestic manufacturer Zanella Hermanos y Cia SACIFI.

Resolution No. 763 of 7 June 1996 of the former Ministry of the Economy and Public Works and Services, implemented the regime concerning the requirement of certificates of origin in certain circumstances.

In accordance with the provisions of Article 2(c) of that Resolution, the implementing authority is authorized to order the production of certificates of origin for statistical purposes.

As follows from Annex II, paragraph 3, of Resolution No. 381 of 1 November 1996 of the former Ministry of the Economy, Public Works and Services, expounding the above-mentioned Regulation, the Secretariat of Industry, Trade and Mining may demand the relevant certificates when an investigation aimed at the possible establishment of safeguards measures has been initiated.

By virtue of the foregoing, it is necessary to instruct the General Directorate of Customs, attached to the Federal Public Revenue Administration of the Ministry of the Economy, to proceed to require the production of the certificates in question sixty (60) days after the entry into force of the Resolution stipulating that an investigation should be initiated.

The Argentine Republic, by Law No. 23.981 of 15 August 1991, ratified the Treaty of Asuncion making it a State party to the Southern Common Market (MERCOSUR), and also, by Law No. 24.560 of 20 September 1995 ratified the Protocol of Ouro Preto.

MERCOSUR Council Decision No. 17 of 17 December 1996 approved the Regulation concerning the application of safeguards measures to imports from non-members of MERCOSUR.

Chapter XII of the Regulation mentioned in the previous paragraph provides for "transitional measures for a transition period lasting up to 31 December 1998, during which the States parties will continue to apply their domestic legislation where safeguards measures to be applied by just one of them are concerned.

The Legal Service for Industry, Trade and Mining in the General Directorate of Legal Affairs of the Ministry of the Economy has taken the appropriate action within its sphere of competence.

This Resolution is issued under the powers conferred by the Agreement on Safeguards, incorporated in our legal system by Law No. 24.425 and Decree No. 1059.

Therefore,

The Secretariat of Industry, Trade and Mining

Decides:

Article 1. To open a safeguard investigation concerning mopeds and motorcycles of up to one hundred (100) cubic centimetres cylinder capacity exported to the Argentine Republic, under the following tariff headings of the MERCOSUR Common Nomenclature: 8711.10.00 and 8711.20.10.

Article 2. To instruct the General Directorate of Customs, attached to the Federal Public Revenue Administration of the Ministry of the Economy, to proceed to require production of certificates of origin for all imports of the product described in Article 1 of this Resolution, sixty (60) days after the date of entry into force of this Resolution, for verification purposes.

Article 3. The hearing provided for in Article 13(e) of Decree No. 1059 of 19 December 1996 shall be held sixty (60) calendar days from the day following publication of this Resolution in the "Boletín Oficial" (Official Journal).

Article 4. This Resolution shall take effect from the day following its publication in the Official Journal of the Argentine Republic.

Article 5. For communication, publication, transmittal to the National Department of the Official Registry, and archiving. Débora Giorgi.

Secretariat of Industry, Trade and Mining

Foreign trade

Resolution 438/2000

Amending Resolution 353/2000, which approved the opening of a safeguards investigation concerning mopeds and motorcycles of up to one hundred cubic centimetres cylinder capacity under certain tariff headings of the MERCOSUR Common Nomenclature.

Buenos Aires, 14 August 2000

Having regard to File No. 060-001869/2000 of the Registry of the Ministry of the Economy, and

Whereas:

Resolution No. 353 of 17 July 2000 of the Secretariat of Industry, Trade and Mining of the Ministry of the Economy approved the opening of a safeguards investigation into exports to the Argentine Republic of mopeds and motorcycles of up to one hundred cubic centimetres (100 cc) cylinder capacity, under the following tariff headings of the MERCOSUR Common Nomenclature: 8711.10.00 and 8711.20.10.

The above Resolution contains in its first preambular paragraph and in Article 1 a description of the product under investigation.

The description in question failed to mention the exclusion of quadricycles and so-called all-terrain vehicles, by which is meant trial, endurance and motorcross vehicles.

It is therefore necessary to remedy the above-mentioned omission.

The Legal Service for Industry, Trade and Mining attached to the General Directorate of Legal Affairs of the Ministry of the Economy has taken the appropriate actions within its competence.

This Resolution is issued under the powers conferred by the Agreement on Safeguards, incorporated in our legal system by Law No. 24.425, Decree No. 1059 of 19 September 1996 and Article 101 of the Regulations on Administrative Procedures, Decree No. 1759/72 (T.O. 1991).

Therefore,

The Secretariat of Industry, Trade and Mining

Decides:

Article 1. To amend the first preambular paragraph of Resolution No. 353 of 17 July 2000 of the Secretariat of Industry, Trade and Mining, to read as follows:

"In that file, the domestic manufacturer Zanella Hnos y Cia SACIFI requested the opening of an investigation with a view to the application of a safeguard measure concerning the importation of mopeds and motorcycles of up to one hundred cubic centimetres (100 cc) cylinder capacity, with the exception of quadricycles and so-called all-terrain vehicles, by which is meant trial, endurance and motorcross vehicles, under the following headings of the MERCOSUR Common Nomenclature: 8711.10.00 and 8711.20.10."

Article 2. To substitute for Article 1 of Resolution No. 353 of 17 July 2000 of the Secretariat of Industry, Trade and Mining the following:

"Article 1. To open a safeguard investigation concerning mopeds and motorcycles of up to one hundred cubic centimetres (100 cc) cylinder capacity exported to the Argentine Republic, with the exception of quadricycles and so-called all-terrain vehicles, by which is meant trial, endurance and motorcross vehicles, under the following tariff headings of the MERCOSUR Common Nomenclature: 8711.10.00 and 8711.20.10."

Article 3. For communication, publication, transmittal to the National Department of the Official Registry, and archiving. Débora Giorgi.

Monday, 4 September 2000
