

WORLD TRADE ORGANIZATION

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**Committee on Anti-Dumping Practices
Ad Hoc Group on Implementation**

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TIMELINE, CONFIDENTIAL INFORMATION, AND LESSER DUTY RULE (PARAGRAPH 3 OF WTO/AIR/643)

Information Provided by Brazil

The following communication, dated 9 September 1997, has been received from the Permanent Mission of Brazil.

1. Timeline

(a) Preliminary examination of the application

Within 20 days from submission of the application, the applicant is notified on whether the application is appropriate. If the application is not considered to be appropriate, the applicant will have two different opportunities to submit complementary information. In both cases, the deadline for informing the applicant is of 20 days, counting from the date of submission of the information requested (see Article 19 of Decree 1602/95).

(b) Initiation of the investigation

Within 30 days from the date of issuance of the communication informing the applicant that the application is adequate, the applicant will be informed of the decision, affirmative or negative, regarding the initiation of the investigation (see Article 21 of Decree 1602/95).

(c) Qualification of other interested parties

After the publication of the notice that contains the decision to initiate the investigation, a period of 20 days is granted for presentation of requests to qualify other parties that consider themselves to be interested parties in the proceedings (see Article 21.2 of Decree 1602/95).

(d) Deadline for returning questionnaires

Interested parties shall receive questionnaires for purposes of the investigation and shall have 40 days within which to return them. This period of time will start counting from the date the questionnaires are issued (see Article 27 of Decree 1602/95).

An extension of the 40-day period may be authorized when it is requested, its necessity is demonstrated, and whenever it is feasible. This extension will be for a period of up to 30 days, taking into account the time periods of the investigation (see Article 27.2 of Decree 1602/95).

(e) Preliminary determination

If at least 60 days have passed since the date of the initiation of the investigation, provisional anti-dumping measures may be applied, based on the examination to the information contained in the replies to the questionnaires of the investigation, and if there is a preliminary affirmative determination of dumping and consequent injury to the domestic industry, and if it is considered that such measures are necessary to prevent injury being caused during the investigation (see Article 34 of Decree 1602/95).

(f) Hearings

Interested parties may request hearings during the course of the investigation, within the time period indicated in the notice that contains the initiation of the investigation (see Article 31 of Decree 1602/95). The time period that is usually established for requests for hearings ends on the date in which the final hearing is convened.

Interested parties will be notified of the hearings with an antecedence of at least 30 days (see Article 31 of Decree 1602/95).

(g) Presentation of essential facts under examination

Before completing the findings regarding the final determination, the investigative authorities will convene a final hearing, wherein the interested parties shall be notified, through a written technical note, regarding the essential facts under examination that are the basis of the findings. Interested parties are allowed a period of 15 days counting from the final hearing to submit comments. At the end of the 15-day period, the investigating process shall be considered as closed (see Article 33 of Decree 1602/95).

(h) Presentation of written submissions by the parties

Throughout the investigation, parties may present written submissions that are included in the process. The final deadline for presentation of written submissions is the end of the 15-day period mentioned in letter (g).

(i) Final determination

The final determination on the existence of dumping, of injury and of the causal link between them will be reached based on the information collected or received throughout the investigation and on the comments received within the established deadline after the final hearing.

The investigation shall be concluded within one year from its initiation, except under exceptional circumstances (see Article 39 of Decree 1602/95).

All acts containing determinations, final or preliminary, related to the investigation, will be published in the "Diario Oficial" (Official Gazette) immediately after the decision by the competent authorities.

2. Confidential information

Even though the creation of a list of information that is confidential by nature is still being discussed in Brazil, it is considered that such list must be as restricted as possible, and include only information of a party that, if disclosed, can affect conditions of competition, such as copies of receipts, list of clients and prices practised by clients.

3. Lesser duty rule

In the case of imposition of anti-dumping duties less than the margin of dumping, the Brazilian authorities are of the view that the prices of the like product in the domestic market of the importing country and the prices of the imported product, adjusted to the same level of trade, must be taken into account.

Prices in the domestic market to be taken into consideration are, in principle, those in effect during the period of investigation of the existence of dumping. Nevertheless, if it is observed that there has been a depression or suppression of these prices, as a result of the unfair competition, the investigative authorities may consider the prices that should have been practised by the domestic industry under normal conditions of trade.

Import prices are those effectively practised in the transaction, plus the costs of import in the import country.