

WORLD TRADE ORGANIZATION

RESTRICTED

G/ADP/Q1/MUS/3*

G/SCM/Q1/MUS/3*

23 December 1996

(96-5357)

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

Replies of MAURITIUS¹
to questions posed by the UNITED STATES² and HONG KONG³

The following communication, dated 4 December 1996, has been received from the Permanent Mission of Mauritius.

Questions from the United States

1. *What provision has been made for conducting reviews of new exporters as provided for under A-D Article 9.5?*
2. *What provision has been made for terminating or reviewing orders as provided for under A-D Article 11.3?*
3. *Is judicial review available as required under A-D Article 13?*
4. *How will "the reasonable amount for administrative, selling, and general costs and profits" 5(b) (G/ADP/N/1/MUS/2, page 3) be determined?*

Questions from Hong Kong

1. *Mauritius' notification contains its latest domestic legislation on anti-dumping.*
 - (a) *What is the legal status of the WTO A-D Agreement (the Agreement) in Mauritius? Does it have the force of law?*

*This document cancels and replaces document G/ADP/Q1/MUS/3-G/SCM/Q1/MUS/3 dated 18 December 1996. English only.

¹G/ADP/N/1/MUS/2

²G/ADP/Q1/MUS/1-G/SCM/Q1/MUS/1.

³G/ADP/Q1/MUS/2-G/SCM/Q1/MUS/2.

- (b) *Are the A-D officials of Mauritius required, legally or otherwise, to observe the provisions of the Agreement in the conduct of A-D proceedings, or to consult them, for example on the interpretation of domestic legislation?*
2. *Numerous provisions of the Agreement are not featured in Mauritius' legislation, or the codification may not be adequate. Notable examples are as follows:*
- *sufficient domestic sales (Article 2.2 and Footnote 2)*
 - *establishment of costs (Articles 2.2.1 and 2.2.2)*
 - *Notion of fair comparison and relevant provisions (Article 2.4)*
 - *exchange rates (Article 2.4.1)*
 - *comparison methodology (Article 2.4.2)*
 - *on-site verification (Annex I)*
 - *sampling (Article 6.10)*
 - *duty for exporters and producers not selected in sampling (Article 9.4)*
- (a) *In the absence of explicit domestic provisions reflecting the above Agreement provisions, how will Mauritius ensure compliance with the Agreement?*
- (b) *Will Mauritius contemplate further legislative steps to ensure the conformity of its legislation and administrative procedures with the provisions of the Agreement, in accordance with Article 18.4?*
3. *What judicial review procedures has Mauritius put in place in observance of its obligations under Article 13 (Judicial Review) of the Agreement?*
4. *What is Mauritius' policy and law for the implementation of WTO Panel Reports?*

Answer

I have the honour to refer to the questions addressed to Mauritius by the United States and Hong Kong at the regular meeting on Anti-Dumping Practices held on 21 October last and to submit in its regard, the following information.

First, it must be clear that there is no anti-dumping legislation in Mauritius. However, in the wake of recommendations made during the Trade Policy Review of Mauritius in October 1995, Mauritius drew up interim administrative procedures for anti-dumping action. These were notified to the WTO in a spirit of transparency, on 13 November 1996, and have been erroneously interpreted as anti-dumping legislation.

As it may be seen from the first paragraph of the notification, these administrative procedures which do not have a legal basis are theoretical in nature, being based largely on the Agreement on the Implementation of Article VI of GATT 1994. These measures were instituted on a trial basis and have never been concretely implemented. The reason is that at the time these measures were being drawn up, it was believed that Mauritius would receive technical assistance from the WTO to be able to establish the appropriate infrastructure for implementation of these procedures. Such assistance has not been forthcoming.

For the same reason as stated above, it has not been possible for Mauritius to draft anti-dumping legislation so far. It cannot be said with certainty when such legislation would be ready as this would

again depend on the availability of technical assistance. This has been requested at a multilateral as well as at a bilateral level.

In view of the above, it is clear that the questions asked by the United States and Hong Kong do not apply to the current situation in Mauritius. We are therefore appreciative that the United States has withdrawn its questions in this regard. With respect to the question asked by Hong Kong on whether the WTO Agreement has force in law in Mauritius, I wish to confirm that this is not the case at present.

However, it may be noted that Mauritius, with the help of the World Intellectual Property Organization, has already drafted legislation on intellectual property with a view to bringing existing legislation in conformity with the TRIPS Agreement. Hence, the Government of Mauritius is ready to adopt appropriate anti-dumping legislation in compliance with the Uruguay Round Agreement.