

WORLD TRADE ORGANIZATION

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

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

Questions Posed by EUROPEAN COMMUNITY Regarding the Notification of MOROCCO¹

The following communication, dated 9 April 2001, has been received from the Permanent Delegation of the European Commission.

G/ADP/N/1/MAR/2

PRIOR IMPORT DECLARATION.

1. Could Morocco please explain whether prior import declaration may be requested also in the context of investigations leading to anti-dumping and countervailing duties?

APPLICATIONS FOR BENEFITTING FROM MEASURES UNDER ARTICLE 15 OF LAW NO 13-89

2. Article 22 of Decree no. 2-93-415 on modalities for the application of anti-dumping and countervailing duties, states that an application to benefit from the safeguard measures provided for under Article 15 of Law No 13-89 "*shall contain evidence of the existence of (a) dumping, (b) a subsidy or bounty, and (c) a causal link between the imported product that is dumped or receives a subsidy or bounty and the injury suffered.*"

Could Morocco please explain how it intends to comply with Article 5.2 of the WTO Anti-Dumping Agreement and Article 11.2 of the WTO Agreement on Subsidies and Countervailing measures, in particular as concerns the evidence which an application shall contain to justify the initiation of an investigation? In general terms, could Morocco also explain how it reconciles Articles 22 and 23 of the Decree with its obligations under Article 5 of the WTO Anti-Dumping Agreement and Article 11 of WTO Agreement on Subsidies and Countervailing Measures?

3. Article 30 of the Decree provides that "*The provisions of this Title shall apply to parts or components for the assembly or finishing of any product subject to an anti-dumping or countervailing duty.*"

Could Morocco please explain how it intends to apply this provision in relation to Article 5 of the WTO Anti-Dumping Agreement and Article 11 of the WTO Agreement on Subsidies and Countervailing Measures?

¹ G/ADP/N/1/MAR/2-G/SCM/N/1/MAR/2

IMPOSITION OF MEASURES

4. Article 24.1 of the Decree provides that *"If the Minister concerned provides evidence of the existence of dumping, a subsidy or bounty and injury caused to the domestic industry, the safeguard measures provided under Article 15 of the aforementioned Law No. 13-89 shall be applied forthwith by order of the Minister for Finance, following consultation with the Minister or Ministers concerned"*.

Could Morocco please explain how it reconciles this provision with its obligations under Articles 7 and 9 of the WTO Anti-Dumping Agreement and Articles 17 and 19 of the WTO Agreement on Subsidies and Countervailing Measures?

METHODOLOGY TO DETERMINE MARGIN OF DUMPING AND AMOUNT OF SUBSIDY

5. Article 24 (3) of the above Decree states that *"When applying the safeguard measures provided in the first paragraph above, the amount of the anti-dumping duty shall not under any circumstances exceed the margin of dumping and the amount of the countervailing duty shall not under any circumstances exceed the amount of the subsidy or bounty."*

Could Morocco please explain which is the methodology you will follow to determine the margin de dumping and the amount of subsidy?

PUBLIC ENQUIRY

6. In Article 25 of the Decree it is stated that *"the Consultative Commission on Imports may decide to hold a prior public enquiry in respect of any applications referred to it for its opinion" and that "For this purpose, a model questionnaire shall be made available to interested persons at the head office of the Ministry responsible for foreign trade. The duly completed questionnaire shall be submitted to the Consultative Commission on Imports before the expiry of the time-limit specified in the previous paragraph."*

Article 26 states that *"The Consultative Commission on Imports shall give its reasoned opinion to the Minister responsible of foreign trade within a maximum of four (4) months from the date of referral"*.

Could Morocco please explain how it reconciles this article with its obligations under Article 6 of the WTO Anti-Dumping Agreement and Article 12 of the WTO Subsidies and Countervailing Measures Agreement?

DURATION OF THE DUTIES AND REVIEWS

7. Article 29 of the decree provides that *"Anti-dumping and countervailing duties imposed under the provisions of this Title shall remain in force as long as the measures justifying them persist"*.

Could Morocco please explain how it reconciles this article with its obligations under Article 11.3 of the WTO Anti-dumping Agreement and Article 21.3 of the WTO Subsidies and Countervailing Measures Agreement? What provisions have been made for review of anti-dumping or countervailing duties?

IMPOSING DUTIES ON PARTS AND COMPONENTS

8. Could Morocco please explain under which circumstances would the provisions of Article 30 of the Decree "The provisions of this Title shall apply to parts or components for the assembly or finishing of any product subject to an anti-dumping or countervailing duty" be applied? Has Morocco ever applied this provision?

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9. The notification of Article 15 of the Foreign Trade Law No 13-89 (as amended) and of Title V of Decree No. 2-93-415 does not contain an explicit provision which would limit the imposition of countervailing duties to subsidies which are specific in accordance with Article 1.2 of the Agreement on Subsidies and Countervailing Measures .

Could Morocco please confirm that only imports which benefit from specific subsidies in the meaning of Article 2 of the Agreement on Subsidies and Countervailing Measures may be subject to countervailing duties?

10. The notification of Article 15 of the Foreign Trade Law No 13-89 (as amended) states on page three that imports may be subject to:

- "Tariff or non-tariff measures if a massive increase in imports of directly like competitive products is noted" (Article 15 (3));
 - "Non-tariff measures in the case of imports entering duty free under agreements concluded between Morocco and other countries prior to the entry into force of this Law" (Article 15(4));
 - "A duty to be added to the tariff equivalent referred to under Article 5 if a significant decrease in the price of the products referred to in Article 7 is noted." (Article 15(5)).
- (a) Can Morocco please explain the relationship between these three provisions and paragraphs 1 ("Countervailing duties") and 2 ("Anti-dumping duties") of Article 15 of the Foreign Trade Law No 13-89 (as amended)?
- (b) Under which circumstances can "tariff or non-tariff measures " under Article 15(3) of the Foreign Trade Law No 13-89 (as amended) be adopted?
- (c) Under which circumstances can "non-tariff measures" under Article 15(4) of the Foreign Trade Law No 13-89 (as amended) be adopted?
- (d) Under which circumstances can "a duty [] be added" under Article 15(5) of the Foreign Trade Law No 13-89 (as amended)?
- (e) What is the legal basis for Articles 15(3), 15(4) and 15(5) of the Foreign Trade Law No 13-89 (as amended) in the WTO Agreements?
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