

**NOTIFICATION OF LAWS AND REGULATIONS UNDER
ARTICLE 12.6 OF THE AGREEMENT**

Questions Posed by the UNITED STATES
Regarding the Notification of ECUADOR¹

The following communication, dated 13 November 1998, has been received from the Permanent Mission of the United States.

Q.1. The definition of "safeguard" in title II of Ecuador's law states that a safeguard measure may be taken when imports "have increased or will increase". Article XIX of GATT 1994 and Article 2, para. 1 of the WTO Agreement on Safeguards refer only to "increased quantities". Does Ecuador envision taking a safeguard action when it believes that imports might increase but have not yet increased? Please explain how the phrase "will increase" is consistent with the term "increased quantities" in Article XIX and the WTO Agreement on Safeguards.

Q.2. Article 56 of Ecuador's law states that the "review for determining serious injury or threat thereof shall comprise a period covering imports of the like product in the last twelve (12) months for which information is available." It further states that the administering authority may extend the period to include imports entered after the initiation of the investigation. Does this mean that Ecuador will *only* examine imports and industry trends over a 12-month period to determine whether imports have increased and whether an industry is seriously injured or threatened with serious injury? Please explain how an investigation limited to examination of data for the most recent 12 months could provide sufficient information to support a finding that increased imports are causing or threatening serious injury and that a safeguard measure of up to four years duration is justified.

Q.3. Article 3 of the Agreement on Safeguards sets out certain procedures that must be followed by the competent domestic authorities in conducting investigations, including with respect to public notice, opportunity for importers, exporters, and other interested parties to present evidence and views, and publication of a report setting forth findings and reasoned conclusions on pertinent issues of fact and law. Article 3 also addresses the issue of confidential treatment of certain information obtained during the investigation. Has Ecuador established procedures consistent with its obligations under Article 3 for use in safeguard investigations, and, if so, have they been notified to the Committee on Safeguards? If Ecuador has not established such procedures, when does Ecuador intend to and when will they be notified to the Committee? Will Ecuador consider applying a safeguard measure in the absence of published and properly notified procedures?

¹ G/SG/N/1/ECU/2/Suppl.1.

Q.4. With regard to remedy, who under Ecuador law will make the decision concerning the remedy measure to be applied? What procedures will be followed in deciding the remedy question? What factors will be considered in determining how much relief to apply and for what duration, and what limitations will apply with respect to measures allowed under Ecuadorian law?
