

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

Original: French

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

Replies to the Questions Posed by the UNITED STATES¹ and the
EUROPEAN COMMUNITY² Regarding the Notification
of MOROCCO³

The following communication, dated 18 May 2001, has been received from the Permanent Mission of the Kingdom of Morocco.

QUESTIONS FROM THE UNITED STATES

Q1. Title II of the Annex relating to Article 15 as amended by the Foreign Trade Law No. 13-89 is entitled "Measures to safeguard domestic industry". Please confirm that Article 15 is intended not only to cover safeguard measures permitted under the Safeguards Agreement, but also AD/CVD matters as well.

Reply

Article 15 of the Foreign Trade Law No. 13-89 entitled "Measures to safeguard domestic industry" includes provisions relating both to safeguard measures as such and to anti-dumping and countervailing measures.

Q2. The new paragraph of Article 15 of the Foreign Trade Law immediately below paragraph (5) provides Moroccan authorities with the authority to take "provisional emergency" measures in anti-dumping and countervailing duty investigations "in order to ensure the protection of the domestic industry".

- (a) How does Morocco comply with the provisions of Article 7.1(ii) of the AD Agreement and Article 17.1(b) of the SCM Agreement that there be a preliminary affirmative determination of injury and subsidy and/or dumping before provisional measures are imposed?
- (b) How does Morocco comply with the provisions of Article 7.3 of the AD Agreement and Article 17.3 of the SCM Agreement that provisional measures not be applied sooner than 60 days from the date of initiation of the investigation?

¹ G/ADP/Q1/MAR/2-G/SCM/Q1/MAR/2.

² G/ADP/Q1/MAR/3-G/SCM/Q1/MAR/3.

³ G/ADP/N/1/MAR/2/Rev.1; G/SCM/N1/MAR/2/Rev.1.

- (c) **How does Morocco comply with the provisions of Article 7.4 of the AD Agreement and Article 17.4 of the SCM Agreement concerning the maximum duration of provisional measures?**
- (d) **Please confirm that provisional measures will be limited to a provisional duty or a security by cash deposit or bond in accordance with Article 7 of the AD Agreement and Article 17 of the SCM Agreement.**

Reply

It should be pointed out first of all that the Foreign Trade Law No. 13-89 was drafted in 1989 and entered into force in 1993, well before the adoption of the AD and SCM Agreements resulting from the Uruguay Round negotiations.

Article 15 of the Foreign Trade Law embodies the principles set forth in Article VI of the GATT 1947. As far as subsidies and countervailing duties are concerned, Morocco was not a signatory to the Tokyo Round Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade.

Moreover, following the signature of the Marrakesh Agreements, the WTO Agreements have the force of law. Accordingly, the AD and SCM Agreements are an integral part of Moroccan legislation and their provisions take precedence over the provisions relating to dumping, subsidies and countervailing measures contained in Foreign Trade Law No. 13-89 and its implementing Decree No. 2-93-415. If Morocco is required to implement anti-dumping or countervailing measures, it will apply the rules and procedures of the AD and SCM Agreements.

With a view to further strengthening the implementation at national level of the multilateral rules on dumping, subsidization and countervailing measures, draft legislation on trade defence measures (anti-dumping measures, countervailing measures and safeguard measures) has been drawn up and is currently in process of adoption. This is a draft law based on the provisions of the AD and the SCM Agreements.

Q3. How does the relief authorized in the penultimate paragraph of Article 15 of the Foreign Trade Law, which permits the authorities to require a "prior import declaration for imports of products which cause or threaten to cause injury to the domestic industry", differ from the imposition of provisional measures? How is such relief consistent with the AD and SCM Agreements? Is this a remedy in addition to the remedies permitted under the Agreements?

Reply

The prior import declaration is not considered to be an anti-dumping measure or a provisional countervailing measure. It is an import surveillance measure which may be introduced to permit the real-time monitoring of imports of products concerning which an application has been lodged for the implementation of anti-dumping or countervailing measures.

Q4. Article 22 of "Title V of Decree No. 2-93-415: Modalities for the Application of AD/CVD Duties" addresses applications. However, this Article does not appear to require all of the information specified in Article 5.2 of the AD Agreement and 11.2 of the SCM Agreement. Please confirm that applications are required to contain the information specified in those provisions?

Reply

See the reply to question No. 2.

Q5. Title V of Decree No. 2-93-415 does not mention the standing requirements of Article 5.4 of the AD Agreement and 11.4 of the SCM Agreement. How does Morocco intend to carry out the obligations of those provisions?

Reply

The provisions of Title V of Decree No. 2-93-415 for the implementation of Foreign Trade Law No. 13-89 are incomplete in relation to the AD and SCM Agreements, because they were drafted well before the results of the Uruguay Round negotiations, including the AD and SCM Agreements, were adopted.

Law No. 13-89 was drafted on the basis of Article VI of the GATT 1947. Consequently, its implementing Decree was confined to defining the modalities for the application of the provisions of that law, which was enacted prior to the adoption of the AD and SCM Agreements resulting from the Uruguay Round negotiations.

However, it should be pointed out that, following the signature of the Marrakesh Agreements and pursuant to the Moroccan Constitution, the AD and SCM Agreements are an integral part of Moroccan legislation and their provisions take precedence over the provisions on dumping and subsidies and countervailing measures contained in the Foreign Trade Law and its implementing Decree No. 2-93-415.

Indeed, if Morocco is required to implement anti-dumping or countervailing measures, it will apply the rules and procedures of the AD and SCM Agreements.

Q6. Please confirm that governments of exporting countries will be notified of receipt of an application prior to initiation of an anti-dumping investigation in accordance with Article 5.6 of the AD Agreement.

Reply

In view of the fact that the AD Agreement is an integral part of Moroccan legislation and the provisions of that Agreement take precedence over those of Foreign Trade Law No. 13-89, and in the event of Morocco being required to implement an anti-dumping measure, the government of the exporting country will be notified prior to the initiation of the investigation, in accordance with the provisions of Article 5.6 of the AD Agreement.

Q7. New Article 15(3) of the Foreign Trade Law No. 13-89 ("Foreign Trade Law") appears to make the same injury standard applicable in safeguards investigations as in anti-dumping and countervailing duty investigations.

- (a) **Do the Moroccan authorities in fact use the same injury standard for anti-dumping, countervailing duty, and safeguards investigations?**
- (b) **Does Morocco believe that the injury standards of Article 3 of the AD Agreement, Article 15 of the SCM Agreement, and Article 4 of the Agreement on Safeguards are the same?**

- (c) **If not, please explain the different injury standards that Morocco uses for anti-dumping, countervailing duty, and safeguards investigations and how those standards relate to the standards set forth in the AD, SCM, and Safeguards Agreements respectively ?**

Reply

Following the signature of the Marrakesh Agreements, the AD and SCM Agreements form an integral part of Moroccan legislation and their provisions take precedence over the provisions on dumping and subsidies and countervailing measures contained in Decree No. 2-93-415.

Consequently, if Morocco were required to initiate dumping or countervailing measure proceedings, the evaluation of injury would be carried out in accordance with the relevant provisions of the AD and SCM Agreements, and not in accordance with Article 15 of Foreign Trade Law No. 13-89.

Q8. The only standard in Moroccan law or regulations concerning injury determinations in anti-dumping and countervailing duty investigations appears to be that of the introductory paragraph of Article 15 of the Foreign Trade Law, which states that imports must "cause or threaten to cause material injury to an established domestic industry or materially retard the establishment of a domestic industry".

- (a) **How does Morocco implement the provisions of Article 3 of the AD Agreement and Article 15 of the SCM Agreement concerning the factors that investigating authorities are to consider in making injury determinations?**
- (b) **How does Morocco implement the provisions of Articles 3.7 and 3.8 of the AD Agreement and Articles 15.7 and 15.8 of the SCM Agreement concerning the factors that investigating authorities are to consider in making determinations of threat of material injury?**

Reply

See the reply to question No. 2.

Q9. Moroccan law and regulations do not appear to have any provisions explaining how a "domestic industry" is defined for purposes of Article 15 of the Foreign Trade Law.

- (a) **How does Morocco implement the requirements of Articles 2.6 and 4.1 of the AD Agreement and Articles 15.1 and 16.1 of the SCM Agreement that the domestic industry be defined in terms of production of "like products"?**
- (b) **Does Morocco permit exclusion from the domestic industry of producers that are related to exporters or importers, or are themselves importers of the product under investigation, pursuant to Article 4.1 of the AD Agreement and Article 16.1 of the SCM Agreement? If so, under what circumstances will such exclusions take place?**

Reply

The Foreign Trade Law was drafted on the basis of Article VI of the GATT 1947 and contains no definition of the concept of domestic industry.

However, if Morocco had to initiate a procedure for the implementation of anti-dumping or countervailing measures, it would apply the provisions of Article 2.6 and 4.1 of the AD Agreement and Articles 15.1 and 16.1 of the SCM Agreement, defining domestic industry, since the AD and SCM Agreements have become an integral part of Moroccan legislation as a result of the signing of the Marrakesh Agreements, and their provisions take precedence over the provisions on dumping and subsidies and countervailing measures contained in Decree No. 2-93-415.

Q10. Article 25 of the "Modalities for the Application of Anti-Dumping and Countervailing Duties" states that the Consultative Commission on Imports "may decide to hold a prior public enquiry" with respect to anti-dumping and countervailing duty applications. Does this mean that it is within the discretion of the Consultative Commission to determine whether to hold a public inquiry? If so, how is this consistent with Article 6.2 of the AD Agreement and Article 12.2 of the SCM Agreement that accord interested parties the right, on justification, to present information orally to investigating authorities?

Reply

The Foreign Trade Law and its implementing Decree lay down no mandatory requirement for the opening of a public enquiry, given the fact that this Law was drawn up in 1989 on the basis of Article VI of the GATT 1947.

Nevertheless, as was pointed out earlier, if Morocco is required to initiate a dumping or subsidy procedure, it will comply with the provisions of Article 6.2 of the AD Agreement and Article 12.2 of the SCM Agreement, which give interested parties the right to present orally, to the Consultative Commission on Imports, their supporting arguments and points of view on the case under investigation, since the AD and SCM Agreements have the force of law in Morocco and the provisions of those Agreements apply *ipso facto* to applications lodged with the Consultative Commission on Imports.

It should be noted that the provisions on anti-dumping or countervailing measures contained in the Foreign Trade Law and its implementing text have never been applied since no procedure has been initiated up to now.

Q11. In conducting its public inquiry, must the Consultative Commission on Imports develop a record including all documents received by the Commission and transcripts or memoranda or reports recording or memorializing any meetings held by the Commission and any interested party? Is such a record available to the public? Does it allow for protection of business proprietary information submitted by parties?

Reply

To date, Morocco has not at any time initiated a procedure for implementation of anti-dumping or countervailing measures. If an investigation were to be initiated, and given the fact that the AD and SCM Agreements have the force of law in Morocco, the relevant provisions of those Agreements concerning the confidentiality of information provided during the investigation would be respected.

Thus, any information of a confidential nature to be submitted to the Consultative Commission on Imports cannot be disclosed without the authorization of the party providing the information. However, non-confidential summaries can be made public.

Q12. The second paragraph of Article 25 of the "Modalities" states that notice of any public inquiry will be made "through the press". What press medium does Morocco use to provide this notice?

Reply

Inasmuch as no procedure has been initiated up to now, no public notice concerning anti-dumping measures or countervailing measures has been published. In practice, however, administrative notices are usually published in the Official Journal, in the section reserved for legal notifications, and in some instances in mass-circulation daily newspapers.

Q13. The second paragraph of Article 25 also states that the notice "shall state the time-limit for submissions of any observations concerning the application."

- (a) **Who may file such written submissions?**
- (b) **Are such written submissions authorized in proceedings in which the Consultative Commission does not determine to hold a public inquiry? If not, how does Morocco implement the requirements of Article 6.1 of the AD Agreement and Article 12.1 of the SCM Agreement that interested parties be presented the opportunity to present in writing evidence which they consider relevant concerning the investigation?**
- (c) **Do those filing written submissions have the opportunity to see the application and whatever other information the Moroccan authorities have collected? If not, how does Morocco implement the requirements of Article 6.4 of the AD Agreement and Article 12.3 of the SCM Agreement that authorities provide timely opportunity to interested parties to enable them to see all non-confidential information relevant to the presentation of their cases?**

Q14. How does Morocco implement the provisions of Article 6.5 of the AD Agreement and Article 12.4 of the SCM Agreement concerning submission of confidential information?

Q15. How does Morocco implement the provisions of Article 6.9 of the AD Agreement and Article 12.8 of the SCM Agreement concerning informing interested parties of the essential facts under consideration?

Reply

See the reply to question No. 2.

Q16. Article 26 of the "Modalities" appears to state that the Consultative Commission shall provide its opinion on an application for anti-dumping or countervailing duties within four months of receiving the application from the minister in charge of foreign trade.

- (a) **Is the Consultative Commission's opinion final, or is it subject to review and/or revision by the minister?**
- (b) **If the minister has the ability to review and/or revise the Consultative Commission's opinion, what are the standards and procedures applicable to such a review? Can interested parties participate in the review process?**

- (c) **Does Morocco publish the final determination on whether to issue anti-dumping or countervailing duties (whether it be issued by the Consultative Commission or the minister)? How does Morocco implement the provisions of Article 12 of the AD Agreement and Article 22 of the SCM Agreement concerning public notice and explanation of determinations?**

Reply

The Consultative Commission on Imports, set up under Article 9 of Decree No. 2-93-415 implementing the Foreign Trade Law, is required to give its opinion to the Minister responsible for foreign trade on the implementation of anti-dumping measures and countervailing measures, among other matters.

Since its establishment in 1993, the Commission has never given its opinion on matters relating to the implementation of anti-dumping measures and countervailing measures.

However, Morocco considers that – from the point of view of either the Consultative Commission on Imports or the Minister responsible for foreign trade – the decision to impose an anti-dumping duty or a countervailing duty can be taken only if the conditions for the application of such measures, as defined in the AD and SCM Agreements, are met, and the procedure laid down by those Agreements is respected.

Q17. How does Morocco implement the provisions of Article 13 of the AD Agreement and Article 23 of the SCM Agreement concerning judicial or administrative review of determinations?

Reply

Under Moroccan law, administrative decisions may be the subject of appeal to the administrative courts. The right of appeal is thus guaranteed and the administrative court may receive applications for review of an anti-dumping measure or a countervailing measure, which may be lodged by the injured party. Consequently, the provisions of Article 13 of the AD Agreement and those of Article 23 of the SCM Agreement are broadly integrated into Moroccan law.

Q18. Article 29 of the "Modalities" states that anti-dumping and countervailing duty measures "shall remain in force as long as the measures justifying them persist". How is this consistent with Article 11.3 of the AD Agreement and Article 21.3 of the SCM Agreement that measures shall not remain in force beyond five years unless the authorities determine in a review proceeding that continuation of the measures is necessary?

Reply

Foreign Trade Law No. 13-89 was drafted in 1989 on the basis of Article VI of the GATT 1947 and entered into force in 1993, well before the adoption of the results of the Uruguay Round negotiations, including the AD and SCM Agreements which define the rules and disciplines for implementation of anti-dumping measures and countervailing measures.

However, following the signature of the Marrakesh Agreements, the WTO Agreements have the force of law. Accordingly, the AD and SCM Agreements are an integral part of Moroccan legislation, and their provisions take precedence over the provisions on dumping, subsidies and countervailing measures contained in Foreign Trade Law No. 13-89 and its implementing Decree No. 2-93-415.

If Morocco is required to implement anti-dumping measures or countervailing measures, it will apply the rules and procedures of the relevant WTO Agreements. Thus, the duration of such measures will be in conformity with the provisions of Article 11.3 of the AD Agreement and Article 21.3 of the SCM Agreement.

Q19. Article 11 of Decree No. 2-93-415 concerning the Consultative Commission on Imports states that the work of the Consultative Commission shall be governed by rules of procedures which the Commission shall establish with approval of the Ministry responsible for foreign trade. Has the Commission approved any such rules of procedure? If so, when will Morocco notify them to these Committees?

Reply

The rules of procedure of the Consultative Committee on Imports lay down the modalities for the work of the Commission, as agreed among its members. Since these rules of procedure do not constitute a legislative text or regulation within the meaning of a law or a decree, Morocco considers that they need not be the subject of notification.

Q20. How has Morocco implemented the provisions of Article 5.8 of the AD Agreement and Article 11.9 of the SCM Agreement requiring immediate termination of a proceeding when the margin of dumping or amount of subsidy is *de minimis* or when the volume of imports is negligible?

Reply

Up to now, Morocco has not at any time initiated a procedure in respect of dumping or countervailing measures. The provisions of Article 5.8 of the AD Agreement and those of Article 11.9 of the SCM Agreement concerning the immediate termination of an investigation in cases of *de minimis* dumping or subsidization or negligible import volumes have thus never been applied.

However, if a procedure is initiated, Morocco will abide by the provisions of Article 5.8 of the AD Agreement and Article 11.9 of the SCM Agreement, since the AD and SCM Agreements are an integral part of Moroccan legislation and their provisions apply *ipso facto* to any applications that will be considered by Morocco.

QUESTIONS FROM THE EUROPEAN COMMUNITY

Q1. 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 BENEFITING FROM MEASURES UNDER ARTICLE 15 OF LAW NO. 13-89

Q2. 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?

Q3. 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?

IMPOSITION OF MEASURES

Q4. 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

Q5. 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 of dumping and the amount of subsidy?

PUBLIC ENQUIRY

Q6. 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 for 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

Q7. 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

Q8. 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?

G/SCM/N/1/MAR/3

Q9. 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?

Q10. 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?**

Replies

PRIOR IMPORT DECLARATION

The prior import declaration provided for in Article 15 of Foreign Trade Law No. 13-89 is not considered to be an anti-dumping measure or a provisional countervailing measure. It is an import surveillance measure which may be introduced to permit the real-time monitoring of imports of products concerning which applications for the imposition of anti-dumping measures, countervailing measures or safeguard measures have been submitted.

APPLICATIONS THAT MAY BENEFIT FROM MEASURES UNDER ARTICLE 15 OF FOREIGN TRADE LAW NO. 13-89

The concept of "measures to safeguard domestic industry" is defined broadly under Foreign Trade Law No. 13-89. It covers provisions relating to anti-dumping measures, countervailing measures and safeguard measures as such.

It should be pointed out first of all that Foreign Trade Law No. 13-89 was drafted in 1989 and entered into force in 1993, well before the adoption of the AD and SCM Agreements resulting from the Uruguay Round negotiations.

Thus, Article 15 of the Foreign Trade Law embodies the principles set forth in Article VI of the GATT 1947. With regard to subsidies and countervailing measures, Morocco was not a signatory to the Tokyo Round Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade.

As a result of the signature of the Marrakesh Agreements, the WTO Agreements have the force of law. Accordingly, the AD and SCM Agreements are an integral part of Morocco's legal system and their provisions take precedence- over the provisions on dumping or subsidies and countervailing measures contained in Foreign Trade Law No. 13-89 and its implementing Decree No. 2-93-415. If Morocco is required to implement anti-dumping measures or countervailing measures, it will apply the rules and procedures of the AD and SCM Agreements.

With a view to further strengthening the implementation at national level of the multilateral rules on dumping, subsidies and countervailing measures, draft legislation on trade defence measures (anti-dumping measures, countervailing measures and safeguard measures) has been drawn up and is currently in process of adoption. This is a draft law based on the provisions of the AD and SCM Agreements.

IMPOSITION OF ANTI-DUMPING MEASURES AND COUNTERVAILING MEASURES

The provisions of Article 15 of Foreign Trade Law No. 13-89 and those of Title V of its implementing Decree No. 2-93-415 reflect the principles set forth in Article VI of the GATT 1947. They were drafted and implemented well before the adoption of the AD and SCM Agreements resulting from the Uruguay Round negotiations.

However, by virtue of the signature of the Marrakesh Agreements, the WTO Agreements have the force of law and their provisions take precedence over the provisions of Title V of Decree No. 2-93-415 on dumping and countervailing measures.

If Morocco is required to impose anti-dumping measures or countervailing measures, it will apply the relevant rules and procedures of the AD and SCM Agreements. Accordingly, the provisions of Articles 7 and 9 of the AD Agreement and those of Articles 17 and 19 of the SCM Agreement concerning the imposition of such measures will be respected.

METHODOLOGY TO DETERMINE MARGIN OF DUMPING AND AMOUNT OF SUBSIDY

To date, Morocco has not at any time initiated a dumping or subsidy procedure. No margin of dumping or amount of subsidy has been determined.

However, if a procedure is initiated, Morocco will abide by the rules recommended at multilateral level, since the AD and SCM Agreements are an integral part of Moroccan legislation and the provisions of those Agreements apply *ipso facto* to any applications that will be submitted to the Ministry responsible for foreign trade.

PUBLIC INQUIRY

The provisions of Article 15 of Foreign Trade Law No. 13-89 and those of Title V of its implementing Decree No. 2-93-415 reflect the principles set forth in Article VI of the GATT 1947. They were drafted and implemented well before the adoption of the AD and SCM Agreements resulting from the Uruguay Round negotiations.

However, as a result of the signature of the Marrakesh Agreements, the WTO Agreements have the force of law and their provisions take precedence over the provisions on dumping, subsidies and countervailing measures contained in Foreign Trade Law No. 13-89 and its implementing Decree No. 2-93-415.

If Morocco is required to impose anti-dumping measures or countervailing measures, it will apply the rules and procedures of the relevant WTO Agreements, and the provisions of Article 6 of the AD Agreement and Article 12 of the SCM Agreement relating to evidence and the conduct of the investigation will accordingly be respected.

DURATION OF ANTI-DUMPING AND COUNTERVAILING MEASURES AND THEIR REVIEW

The Moroccan Foreign Trade Law does not limit the duration of anti-dumping or countervailing duties and does not lay down rules for the review of such duties, but if Morocco has to initiate a procedure for the implementation of anti-dumping or countervailing measures, it will conform to the provisions of Article 11.3 of the AD Agreement and Article 21.3 of the SCM Agreement.

In this connection, it should be pointed out that the AD and SCM Agreements are an integral part of Moroccan legislation and their provisions take precedence over the provisions on dumping and countervailing measures contained in Article 15 of Foreign Trade Law No. 13-89 and Title V of its implementing Decree.

Thus, draft legislation on trade defence measures (anti-dumping measures, countervailing measures and safeguard measures) has been drawn up and is in process of adoption. This is a draft law based on the provisions of the AD Agreement and the SCM Agreement.

IMPOSITION OF ANTI-DUMPING AND COUNTERVAILING DUTIES ON PARTS AND COMPONENTS

The provisions of Article 30 of Decree No. 2-93-415 implementing the Foreign Trade Law are considered as measures to prevent circumvention of anti-dumping or countervailing duties.

Morocco has never applied these provisions.

OTHER QUESTIONS

Reply to question No. 1 concerning the types of subsidies covered by countervailing measures

Article 15 of Law No. 13-89 does not define the types of subsidies which may be subject to countervailing measures. However, given the fact that the SCM Agreement has the force of law at national level and that the provisions of that Agreement take precedence over those contained in the Foreign Trade Law, countervailing measures will be imposed only against imports for which specific subsidies have been granted in accordance with Article 1.2 of the SCM Agreement.

Reply to question No. 2(a) concerning the scope of Article 15 of the Foreign Trade Law

Article 15 of Foreign Trade Law No. 13-89 entitled "Measures to safeguard domestic industry" covers both the provisions relating to safeguard measures as such and those relating to anti-dumping and countervailing measures.

There is no connection between anti-dumping and countervailing measures, on the one hand, and the other measures provided for in Article 15 of Foreign Trade Law No. 13-89, applicable in other situations, on the other.

Reply to question No. 2(b) concerning safeguard measures

The tariff or non-tariff measures provided for in Article 15.3 of the Foreign Trade Law may be applied in the event of a massive increase in imports, which causes or threatens to cause serious injury to the domestic industry producing like or directly competitive products, in accordance with the provisions of the WTO Agreement on Safeguards.

Reply to question No. 2(c) concerning tariff or non-tariff measures applicable to imports effected under preferential arrangements

The tariff or non-tariff measures provided for in Article 15.4 of the Foreign Trade Law concern only imports effected on a preferential basis under preferential bilateral trade agreements concluded by Morocco with other countries. MFN imports are not concerned by this measure.

Reply to question No. 2(d) concerning special safeguard measures for agriculture

The additional duty provided for in Article 15.5 of the Foreign Trade Law may be implemented only in respect of basic agricultural products (in the case of Morocco, these products are: meat, dairy produce, cereals, oil-seeds, sugars and their derivatives), for which tariff protection has been converted into a tariff equivalent pursuant to the provisions of the Agreement on Agriculture.

The criteria for the application of the additional duty are those provided for in the Agreement on Agriculture.

Reply to question No. 2(e) on the conformity of measures under Article 15 of the Foreign Trade Law other than anti-dumping measures and countervailing measures

The measures provided for in Articles 15.3, 15.4 and 15.5 of the Foreign Trade Law are consistent with the provisions of the WTO Agreements inasmuch as Article 15.3 refers to the Agreement on Safeguards and Article 15.5 to the Agreement on Agriculture. Article 15.4 is applicable only to preferential imports and not to MFN imports governed by the WTO Agreements.
