

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

Original: English

QUESTIONS CONCERNING THE NOTIFICATIONS PROVIDED
BY COLOMBIA¹ OF LAWS AND REGULATIONS UNDER
ARTICLES 18.5 AND 32.6 OF THE AGREEMENTS

Supplement

The following communication, dated 28 November 1995, has been received from the Permanent Mission of the United States.

1. Article 1 of Chapter one of Decree 299 (the Decree) appears to allow the antidumping authorities (INCOMEX) to provide data obtained in an AD investigation to the National Customs and Excise Directorate (DIAN) to investigate potential under-invoicing. Is this accurate? If so is the party submitting the data informed that data may be shared with the DIAN? Finally, how is this provision consistent with Article 6.5 of the A-D Agreement which requires that "information shall not be disclosed without specific permission of the party submitting it"?
2. How does an examination of the factor found in Decree Article 13.1.2 (e.g., "effects of imports on trends in the domestic industry") differ with the factor found in Article 13.2, "[i]nformation on the domestic producers affected" and how are these two provisions, read together, consistent with Articles 3.1 - 3.5 of the A-D Agreement and Articles 15.1 - 15.5 of the SCM Agreement?
3. There is no requirement in Article 13 of the Decree for consideration of the magnitude of the dumping margin in assessing material injury in antidumping investigations. How is this consistent with Article 3.4 of the A-D Agreement?
4. What factors will INCOMEX take into consideration when determining the "causal relationship between the imports and the alleged injury" pursuant to Decree Article 13.3? How is such consideration consistent with Article 3.5 of the A-D Agreement and Article 15.5 of the SCM Agreement?
5. Decree Article 14 identifies only two factors to consider in determining whether there is threat of material injury. Does the Decree also intend to include an analysis of the additional factors indicated in Article 3.7 of the A-D Agreement and Article 15.7 of the SCM Agreement? If not, please explain how the Decree is consistent with the Agreements in this regard.

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6. There is no requirement in Article 14 of the Decree that, when making threat determinations, INCOMEX must consider the nature of the subsidies in question. How is this consistent with Article 15.7 of the SCM Agreement?

7. The particulars indicated in Decree Article 32 for initiation of an antidumping or countervailing duty investigation do not include information on the consequent impact of the imports with respect to market share, productivity, return on investments, actual and potential negative effects on cash flow, inventories, employment, wages, growth, or ability to raise capital or investments, which are specifically mentioned in A-D Agreement Article 5.2 (which incorporates Articles 3.2 and 3.4) and SCM Agreement Article 11.2 (which incorporates Articles 15.2 and 15.4). Does the Decree contemplate these requirements in its initiation provisions in Article 32?