

WORLD TRADE ORGANIZATION

RESTRICTED

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

Original: Spanish

REPLIES TO QUESTIONS POSED BY AUSTRALIA¹ CONCERNING THE NOTIFICATION OF COLOMBIAN LAWS AND REGULATIONS²

The following communication, dated 19 January 1996, has been received from the Permanent Mission of Colombia.

1. Article 1 excludes imports from members of the Cartagena Agreement from the scope of the Decree. Are these countries totally exempt from anti-dumping and countervailing duty action, or are they dealt with under separate legislation?

Investigations into dumping or subsidies, undertaken by Colombia in respect of imports originating in member countries of the Cartagena Agreement, are conducted in accordance with Decision 283 of the Commission of the Cartagena Agreement.

2. What provision is made to deal with exchange rate conversions in accordance with Article 2.4.1 of the Anti-Dumping Agreement?

By virtue of its incorporation in Colombian national legislation through Law 170 of 1994, Article 2.4.1 of the Anti-Dumping Agreement shall apply in matters relating to exchange rate conversions.

3. The third paragraph of Article 10 would appear to allow a comparison of the normal value established on a weighted average basis to prices of individual export transactions when there is any variation in the normal value and export price during the period of review. Would this only be done under the conditions set out in Article 2.4.2 of the Anti-Dumping Agreement?

Yes. A normal value established on a weighted average basis may be compared to prices of individual export transactions only where the conditions set out in Article 2.4.2 of the Agreement are met.

4. In defining a subsidy, Article 11 refers to "bounty, aid, premium, stimulus or incentive". How are these defined and do they require a financial contribution by government?

¹G/ADP/W/224-G/SCM/W/234.

²G/ADP/N/1/COL/1-G/SCM/N/1/COL/1.

Article 11 of Decree 299 of 1995 clearly states that an import is considered as having been subsidized when the production, manufacture, transport or export of the imported good or of its raw materials has received any bounty, aid, premium, stimulus or incentive from the government of the country of origin or of export or from its public or private agencies.

However, although no definition is provided in the aforementioned Article of the terms bounty, aid, premium, stimulus and incentive, these are taken to mean a financial contribution in accordance with Article 1 of the Subsidies Agreement, incorporated in Colombian legislation through Law 170 of 1994.

5. How will INCOMEX determine under the Decree whether a subsidy is not countervailable (because it is not specific, fulfils the criteria of Article 8.2 of the Subsidies Agreement or conforms fully with the provision of Annex 2 of the Agriculture Agreement)?

Colombian legislation has no specific regulations. The provisions set out in the Subsidies Agreement and the Agriculture Agreement shall apply.

6. How would the amount in subparagraph 1 of the second paragraph of Article 12 be established? Will Colombia be providing implementing regulations on the methods to be used to calculate the benefit to the recipient as required under Article 14 of the Subsidies Agreement?

Colombia will establish regulations for the methods to be used in calculating the benefit to the recipient in keeping with the guidelines contained in Article 14 of the Agreement.

In accordance with subparagraph 1 of Article 12, the amount of the subsidy will be determined by deducting from the total subsidy any costs incurred by the recipient in obtaining the subsidy.

7. Is the explicit provision in the legislation for immediate termination during an investigation where the margin of dumping or the amount of countervailable subsidization is *de minimis*, or the volume of dumped/subsidized imports are negligible?

Article 41 of Decree 299 of 1995 provides that the investigation may be deemed concluded at any time, *inter alia*, when the margin of dumping, the amount of the subsidy or the volume of the imports is *de minimis*. For such purposes, *de minimis* amounts and negligible volumes of dumped or subsidized imports are defined in accordance with the terms set out in the Anti-Dumping Agreement and the Subsidies Agreement.

8. Under paragraph 2 of Article 13 will INCOMEX also consider the magnitude of the margin of dumping?

Article 13 will be applied consistently with the Anti-Dumping Agreement, and therefore the size of the margin of dumping will be taken into account in determining injury.

9. What requirement is there for INCOMEX to consider known factors other than the dumped or subsidized imports that are injuring the domestic industry?

Article 3.5 of the Anti-Dumping Agreement and Article 15.5 of the Subsidies Agreement, incorporated in Colombian legislation through Law 170 of 1994, expressly state that any factors other than dumped imports known to be injuring the domestic industry shall also be examined.

Experience has shown that questionnaires completed by the interested parties in the investigation provide the information on these factors.

10. What is meant in the second paragraph of Article 19 by the amount of duties 'may ... be expressed ... in accordance with a base price'?

The base price is the price established as reflecting normal market conditions. When the anti-dumping or countervailing duty is expressed in terms of a base price, it means that the amount of the duty is variable and will be equivalent to the difference between the base price and the declared price.