

# WORLD TRADE ORGANIZATION

RESTRICTED

**G/ADP/W/293**

**G/SCM/W/301**

5 March 1996

(96-0780)

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

Original: Spanish

## REPLIES TO QUESTIONS POSED BY HONG KONG<sup>1</sup> CONCERNING THE NOTIFICATION OF LAWS AND REGULATIONS OF CUBA<sup>2</sup>

The following communication, dated 15 February 1996, has been received from the Permanent Mission of Cuba.

### General questions

*1. Cuba's notification provides that Cuba does not have specific legislation or regulations related to the Agreement and Article 11 of Decree-Law No. 124 of 1990 (prior to the signing of the WTO Agreement in April 1994) in general terms governs anti-dumping matters. Apparently the skeletal Article 11 does not feature provisions of the WTO Anti-Dumping Agreement.*

- (a) *What is the legal status of the WTO A-D Agreement in Cuba? Does it have the force of law?*

### Answer

In accordance with Article 90, paragraph (m), of the Constitution of the Republic of Cuba, the Council of State, following the proposal of the Council of Ministers, ratified the Agreement Establishing the World Trade Organization on 9 February 1995.

The Cuban legal system is codified, based on the principles of Roman Law. In accordance with the constitutional provisions in force, when ratified by the Council of State an international agreement is incorporated into domestic law with the same status as other legal provisions.

The fact that Decree Law No. 124 entered into force prior to the WTO Agreement does not prevent the rules of the Organization from being mandatory at a national level. Besides, far from conflicting, they are mutually complementary and supplement one another.

As stated previously, the WTO Anti-Dumping Agreement has the force of law in Cuba.

---

<sup>1</sup>G/ADP/W/190-G/SCM/W/197.

<sup>2</sup>G/ADP/N/1/CUB/1-G/SCM/N/1/CUB/1-G/SG/N/1/CUB/1 + G/ADP/N/1/CUB/1/Suppl.1.

Question

1. (b) *Are Cuban A-D officials required, legally or otherwise, to abide by the A-D Agreement in the conduct of A-D proceedings, or to consult the A-D Agreement, for example on the interpretation of domestic legislation?*

Answer

In accordance with Decree Law No. 147 of 21 April 1994 on the reorganization of the bodies of the Central Administration of the State, the Ministry of Finance and Prices and the Ministry of Foreign Trade are the authorities competent to initiate and conduct dumping investigations jointly, and they are bound by Decree Law No. 124.

The proceedings of these authorities in anti-dumping and subsidies matters, in the absence of specific legislation for the time being, are governed by the provisions set out in the WTO Agreements, which form part of national legislation.

Questions

1. (c) *What steps has Cuba taken, and what further steps will it take, to ensure the conformity of its laws, regulations and administrative procedures with the provisions of the WTO A-D Agreement, in accordance with Article 18.4?*
1. (e) *If Cuba is contemplating adoption of new legislation in due course, what is the intended purpose and coverage? What is the timetable of the enactment?*

Answers

The competent authorities are in the process of drawing up specific legislation in this area, which will reflect the provisions of Article 18.4. This procedure is part of the overall process of the review of Cuban trade policy ensuing from adapting it to the new conditions for the development of Cuban foreign trade. The task of the two Ministries in 1996 is to complete this legislation in order to submit it to the Government for consideration.

The responsibilities of the Cuban Administrative Authorities competent in such matters will be defined in the specific legislation. It is considered that the Ministry of Foreign Trade will be responsible for investigating and determining the injury and that the Ministry of Finance and Prices will be responsible for imposing the appropriate measure and overseeing its implementation. In the meantime, these authorities will act jointly.

Question

1. (d) *How will Cuba ensure compliance with the provisions of the WTO A-D Agreement before its laws are brought into total conformity with the WTO A-D Agreement?*

Answer

Under the Cuban legal system, there is no conflict between domestic legislation and the WTO Agreements since the latter have been incorporated into national legislation. The domestic legislation is not specific, but is supplemented by the international agreement which Cuba is party to or has ratified.

While no specific legislation exists in these matters, the Republic of Cuba will refrain from adopting anti-dumping duties or countervailing measures. Should this be necessary as an exception, Cuba would implement the provisions provided for in such cases by the appropriate WTO Agreements.

Question

2. *What judicial review procedures has Cuba put in place in observance of its obligations under Article 13 of the WTO A-D Agreement?*

Answer

Under the Cuban legal system, a court exists which specializes in economic matters. This court is independent of the authorities responsible for the determination or consideration of disputes arising in respect of anti-dumping measures. The Economic Division of the People's Supreme Court is empowered, under Article 5 of Decree-Law No. 129 of 19 August 1991, to try economic disputes to which a foreign natural or legal person is party.

Question

3. *What is Cuba's policy and law for the implementation of WTO Panel Reports?*

Answer

The Ministry of Finance and Prices and the Ministry of Foreign Trade are the competent authorities to implement WTO Panel Reports and, as stated in our reply to question 1(b), it is mandatory for Cuba to comply with its commitments under the WTO in this area.