

WORLD TRADE ORGANIZATION

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

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QUESTIONS POSED BY CANADA CONCERNING THE NOTIFICATION
PROVIDED BY BOLIVIA¹ OF LAWS AND REGULATIONS UNDER
ARTICLES 18.5 AND 32.6 OF THE AGREEMENTS

The following communication, dated 29 March 1996, has been received from the Permanent Mission of Canada.

With reference to the Notification of Laws and Regulations by Bolivia under Article 18.5 of the Agreement on Implementation of Article VI and Article 32.6 of the Subsidies and Countervailing Measures Agreement of the GATT 1994 to the Committee on Anti-Dumping Practices and the Committee on Subsidies and Countervailing Measures, Canada would like to address the following items:

1. Article 13 of Supreme Decree 23308 provides that the Technical Secretariat is entrusted with carrying out investigations of dumping and subsidy complaints. In this regard, the bodies which comprise the Technical Secretariat include technical representatives of the associations concerned. Article 2 of Bi-Ministerial Decision No. 25191-9 of 4 February 1993 further clarifies the definition of Technical Secretariat by noting that it includes "the relevant department of the Bolivian Confederation of Private Industry, representing the associations concerned". Would it be accurate to conclude, therefore, that the domestic industry alleging dumping or subsidization will play an important role in the investigation of its own complaint?
2. While the definition of "complainant" in Chapter II/Article 2 of Bi-Ministerial Decision No. 25191-9 captures the 25 per cent of total domestic production industry support threshold (via the definition of "major proportion of domestic industry"), the 50 per cent industry support threshold in Articles 5.4 and 11.4 of the WTO Anti-Dumping and Subsidies Agreements respectively, which must also be satisfied before an investigation can be initiated, does not appear to be reflected in the text of Bolivia's laws and regulations. Please clarify.
3. The definition of "retroactive duties" in Chapter II/Article 2 of Bi-Ministerial Decision No. 25191-9 allows for the collection of definitive anti-dumping or countervailing duties on products entered for consumption within 90 days prior to the imposition of provisional duties. Article 38 allows for the collection of provisional duties no sooner than 45 working days from the date of dispatch of questionnaires (which, according to Article 11, is five days from the Ministerial decision to initiate an investigation). Given these time-frames, would the Bolivian authorities levy retroactive duties on products entered for consumption prior to the date of initiation of the investigation?

¹G/ADP/N/1/BOL/1-G/SCM/N/1/BOL/1 + Suppl.1.

4. Chapter III/Article 11 of the Bi-Ministerial Decision No. 25191-9 requires that duly completed questionnaires be returned within 20 working days from their date of dispatch whereas Article 6 of the WTO Anti-Dumping Agreement requires that exporters and foreign producers be given at least 30 days to reply (counted from the date of receipt of the questionnaire, which is deemed to be one week from the date it was sent to the respondent or appropriate diplomatic representative of the exporting Member). Please clarify.

5. Where normal value is determined on a constructed cost basis under Chapter V/Article 24(b) of Bi-Ministerial Decision No. 25191-9, will reasonable amounts for administrative and selling costs, profits and other costs be determined in accordance with Article 2.2.2 of the WTO Anti-Dumping Agreement?