

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

Original: Spanish

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

The following communication, dated 17 April 1996, has been received from the Permanent Mission of Venezuela.

Venezuela has the following questions concerning the Anti-Dumping and Countervailing Measures Legislation notified by Bolivia in documents G/ADP/N/1/BOL/1 and G/SCM/N/1/BOL/1 dated 5 April 1995.

1. GENERAL

- (a) Could the delegation of Bolivia say whether the Marrakesh Agreement and its associated Agreements, including the Anti-Dumping Agreement (A-D Agreement) and the Agreement on Subsidies and Countervailing Measures (SCM Agreement), form part of Bolivia's domestic legislation?
- (b) What is the status of the WTO's A-D and SCM Agreements within Bolivia's domestic legislation and, in particular, in relation to the A-D and SCM legislation previously promulgated and any legislation which might be promulgated subsequent to the said Agreements?
- (c) How are the WTO's A-D and SCM Agreements applied and incorporated in Bolivia's domestic legislation?
- (d) Is it intended to introduce new domestic A-D and SCM legislation in order to implement the WTO's A-D and SCM Agreements? If so, what status will the new legislation have in relation to the WTO's A-D and SCM Agreements and other pre-existing legislation?

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

2. SUBSTANTIVE ASPECTS OF THE A-D AND SCM LEGISLATION NOTIFIED BY BOLIVIA

2.1 Determination of dumping

(a) Observations

Article 24 of Bolivia's regulations implementing the legislation on unfair trade practices states that where it is not possible to establish the normal value in the ordinary course of trade or make a valid comparison with the export price, the normal value shall be calculated by considering the highest export price for the like product exported to a third country, provided it is representative.

Question

Can the delegation of Bolivia explain how calculating the normal value from the highest price for export to a third country can be reconciled with the provisions of Article 2.2 of the WTO's A-D Agreement?

(b) Observations

The WTO requires that for the purposes of determining the margin of dumping the normal value shall be compared with the export price on the basis of the weighted average of each or on a transaction-to-transaction basis. It allows a normal value established on a weighted average basis to be compared to the prices of individual export transactions in special circumstances.

Questions

Can the delegation of Bolivia explain how the comparison between the normal value and the export price for the purposes of determining the margin of dumping specified in Article 26 of the regulations implementing its legislation can be reconciled with the provisions of Article 2.4.2 of the WTO's A-D Agreement? Can the delegation of Bolivia say whether when the normal value calculated on the basis of a weighted average is compared with the prices of individual export transactions the corresponding criteria established by the WTO in Article 2.4.2 of the A-D Agreement are taken into account?

2.2 Determination of injury

(a) Observations

Bolivia's legislation on unfair trade practices does not take into account, for the purpose of determining the existence of threat of injury, whether imports are entering at prices that would have a significant depressing or suppressing effect on domestic prices and would likely increase demand for further imports. Nor does it appear to take into account inventories of the product being investigated. This follows from a reading of Article 31 of the regulations implementing its legislation.

Question

Can the delegation of Bolivia explain how Article 31 of the regulations implementing its legislation on unfair trade practices can be reconciled with Articles 3.7 and 15.7 of the WTO's A-D and SCM Agreements respectively?

(b) Observations

It is noted that the Bolivian A-D and SCM legislation permits the application of corrective measures solely on evidence of the existence of an unfair trade practice if the country under investigation does not grant the injury test when investigating Bolivian products. This follows from Article 2 of Bolivia's regulations implementing the legislation on unfair trade practices.

Question

Can the delegation of Bolivia explain how this provision fits in with the WTO's A-D and SCM Agreements, considering that the latter do not include any similar provision?

2.3 Initiation and procedure

(a) Observations

Bolivia's A-D and SCM legislation appears to disregard the degree of support or opposition expressed by the rest of the domestic producers in establishing whether the complainant represents a substantial proportion of the domestic industry. This follows from Article 2 of the regulations implementing its legislation on unfair trade practices.

Question

Can the delegation of Bolivia explain how this provision can be reconciled with Article 5.4 of the WTO's A-D Agreement and with Article 11.4 of its SCM Agreement?

(b) Observations

Article 33 of Bolivia's regulations implementing its legislation on unfair trade practices determines the significance of the dumped imports on the basis of considerations relating to domestic consumption. In establishing the relevant criteria, the WTO texts refer to the share of the imports in question in the total imports of the country concerned.

Question

Can the delegation of Bolivia explain how the Bolivian criterion for the significance of imports can be reconciled with the provisions of Article 5.8 of the WTO's A-D Agreement?

2.4 Evidence and provisional measures

(a) Observations

Article 11 of Bolivia's regulations implementing the legislation on unfair trade practices fixes a time-limit of twenty (20) working days from the date of despatch of the questionnaires for the interested parties to return them to the Technical Secretariat.

Questions

Can the delegation of Bolivia explain how this time-limit can be reconciled with the provisions of Articles 6.1.1 and 12.1.1 of the WTO's A-D and SCM Agreements respectively? How does the

Technical Secretariat of the MECE treat requests for an extension of the time-limit for the return of questionnaires, as envisaged in the above-mentioned articles of the WTO's A-D and SCM Agreements?

(b) Observations

Bolivia's regulations implementing its legislation on unfair international trade practices fix a maximum period of 45 working days from the date of despatch of the questionnaires for making a preliminary determination of the existence of an unfair trade practice. Considering that the time-limit for despatching questionnaires is five (5) working days from the date of initiation of the investigation, the maximum period for the preliminary determination is fifty (50) working days from the initiation of the investigation.

Question

Can the delegation of Bolivia explain how this time-limit can be reconciled with the provisions of Articles 7.3 and 17.3 of the A-D and SCM Agreements respectively?