

# WORLD TRADE ORGANIZATION

RESTRICTED

**G/ADP/W/369**

**G/SCM/W/379**

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(96-1521)

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

Original: Spanish

QUESTIONS POSED BY VENEZUELA CONCERNING THE NOTIFICATION  
PROVIDED BY SOUTH AFRICA<sup>1</sup> OF LAWS AND REGULATIONS  
UNDER ARTICLES 18.5 AND 32.6 OF THE AGREEMENTS

The following communication, dated 16 April 1996, has been received from the Permanent Mission of Venezuela.

Questions Posed by Venezuela Concerning South Africa's Anti-Dumping  
and Countervailing Measures Legislation

Venezuela has the following questions concerning the Anti-Dumping and Countervailing Measures Legislation notified by South Africa in documents G/ADP/N/1/ZAF/1 and G/SCM/N/1/ZAF/1 dated 8 December 1995.

1. GENERAL

- (a) Could the delegation of South Africa 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 South Africa's domestic legislation?
- (b) What is the status of the WTO's A-D and SCM Agreements within South Africa'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 South Africa's domestic legislation?
- (d) Is it intended to introduce new A-D and SCM domestic 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?

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<sup>1</sup>G/ADP/N/1/ZAF/1-G/SCM/N/1/ZAF/1.

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

2.1 Injury or threat of injury

(a) Observations

South Africa's A-D and SCM legislation does not mention the examination or significance of the volume of imports for the purposes of determining injury, as provided for in Articles 3 and 15 of the WTO's A-D and SCM Agreements.

Questions

Can the delegation of South Africa say whether the A-D and SCM authorities examine the volume and significance of the dumped or subsidized imports for the purposes of determining injury? Can the delegation of South Africa confirm that this examination is governed by the provisions of the WTO's A-D and SCM Agreements?

(b) Observations

South Africa's A-D and SCM legislation does not specify the factors which must be examined for the purposes of determining threat of injury to the domestic industry.

Questions

Can the delegation of South Africa say whether its authorities take into account the factors for determining the existence of a threat of injury to the domestic industry listed in Articles 3.7 and 15.7 of the WTO's A-D and SCM Agreements respectively?

2.2 Determination of normal value

(a) Observations

According to Article 16 of South Africa's A-D legislation, in the absence of a price contemplated in paragraph (a) it is possible to take as the normal value "the highest comparable price" at which like goods are being exported to any third country in the ordinary course of trade.

Question

How does Article 16 of South Africa's A-D legislation fit in with the provisions of Article 2.2 of the WTO's A-D Agreement?

2.3 Determination of subsidy

(a) Observations

South Africa's SCM legislation (Article 1 of the Board on Tariffs and Trade Act and Article 17 of the Guide) does not appear to establish specificity criteria of the kind contained in Article 2 of the WTO's Agreement on Subsidies.

Question

Are there, or do the South African authorities take into account, specificity criteria for determining the existence of subsidies of the kind indicated in Article 2 of the WTO's Agreement on Subsidies?

2.4 Degree of support for or opposition to the petition(a) Observations

Articles 18 and 19 of South Africa's A-D and SCM legislation say nothing about the degree of support for or opposition to the initiation of an investigation or the percentages mentioned in Articles 5.4 and 11.4 of the WTO's A-D and SCM Agreements.

Questions

Do the South African authorities take into account the degree of support or opposition in the domestic industry when initiating an investigation? Do the South African authorities take into account the percentages (50 per cent and 25 per cent) for determining whether the petitioner represents the domestic producers of like goods?

2.5 Provisional measures(a) Observations

South Africa's A-D and SCM legislation says nothing about provisional measures not being applied sooner than sixty (60) days from the date of initiation of the investigation.

Question

Is there, or do the South African authorities take into account, a period of sixty (60) days, as required by Articles 7.3 and 17.3 of the A-D and SCM Agreements respectively, before provisional measures can be applied?

2.6 De minimis criteria and significance of imports(a) Observations

It is noted that South Africa's A-D and SCM legislation says nothing about *de minimis* margins of dumping or amounts of subsidy or about negligible volumes of imports.

Questions

In their investigations, do the South African authorities take into account *de minimis* margins of dumping or amounts of subsidy and the significance of the volume of imports? Can the delegation of South Africa say whether it takes into account the *de minimis* and negligibility criteria established in Articles 5.8 and 11.9 of the A-D and SCM Agreements respectively?