

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 VENEZUELA CONCERNING THE NOTIFICATION
PROVIDED BY TURKEY¹ 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 Turkey's Anti-Dumping
and Countervailing Measures Legislation

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

1. GENERAL

- (a) Could the delegation of Turkey 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 Turkey's domestic legislation?
- (b) What is the status of the WTO's A-D and SCM Agreements within Turkey'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 Turkey'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/TUR/2-G/SCM/N/1/TUR/2.

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

2.1 Injury or threat of injury

(a) Observations

Articles 2, 3 and 4 of Turkey's Law on Prevention of Unfair Competition in Importation, Article 1 of the Degree on Prevention of Unfair Competition in Importation, and Articles 1, 3 and 27 of the Regulation on Prevention of Unfair Competition in Importation refer to market impairment as a type of injury to the domestic industry.

(b) Questions

Could the delegation of Turkey explain the scope and meaning of this term? Are these provisions consistent with Article 3 of the A-D Agreement and Article 15 of the SCM Agreement?

2.2 Degree of support for or opposition to the complaint

(a) Observations

Turkey's legislation says 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.

(b) Questions

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

2.3 Determination of subsidy

(a) Observations

The Turkish legislation does not appear to establish specificity criteria, as contained in Article 2 of the WTO's Agreement on Subsidies.

(b) Question

Are there, or do the Turkish authorities take into account, specificity criteria for determining the existence of subsidies, as provided for in Article 2 of the WTO's Agreement on Subsidies?

2.4 De minimis criteria and significance of imports

(a) Observations

The Turkish legislation appears to say nothing about *de minimis* margins of dumping or amounts of subsidy or about negligible volumes of imports.

(b) Questions

Do the Turkish authorities consider *de minimis* margins of dumping or amounts of subsidy and the significance of the volume of imports in making their investigations? Could the delegation of Turkey say whether it takes into account the *de minimis* and negligibility criteria laid down in Articles 5.8 and 11.9 of the A-D and SCM Agreements respectively?

2.5 Price comparison

(a) Observations

It is noted that Article 22 of the Turkish Regulation on Prevention of Unfair Competition in Importation requires that the comparison of the normal value with the export price shall be made as nearly as possible at the same time and lists a number of items which must be taken into account in order to have the prices fairly compared.

(b) Questions

Do the Turkish authorities take into account the provisions of Articles 2.4, 2.4.1 and 2.4.2 of the WTO's A-D Agreement which requires a fair comparison between the export price and the normal value at the same level of trade, normally at the ex-factory level, and a currency conversion that should be made using the rate of exchange on the date of sale? Moreover, do they consider that the existence of dumping during the investigation phase should normally be established on the basis of a comparison of a weighted average normal value with a weighted average of prices of all comparable export transactions or by a comparison of normal value and export prices on a transaction-to-transaction basis?

2.6 Material injury

(a) Observations

It is noted that Article 28 of the Turkish Regulation on Prevention of Unfair Competition in Importation states that a number of factors shall be taken into account in the determination of material injury.

(b) Questions

Do the Turkish authorities take into account the last sentence of Article 15.2 of the WTO's SCM Agreement which states that no one or several of these factors can necessarily give decisive guidance?

2.7 Like goods

(a) Observations

It is noted that the second paragraph of Article 30 of the Turkish Regulation on Prevention of Unfair Competition in Importation states that in cases where an identical or like product cannot be identified, the effects of the dumped and/or subsidized imports shall be assessed through examination of the production of the narrowest group of products which includes necessary information available for the like product.

(b) Question

What is the significance and scope of this provision within the context of Article 2.6 of the A-D Agreement and footnote 46 to Article 15 of the SCM Agreement, where it is stated that in the absence of a like product the term "like product" shall be interpreted to mean another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration?

2.8 Initiation *ex officio*

(a) Observations

It is noted that Article 4 of the Turkish Law on Prevention of Unfair Competition in Importation states that an investigation may be initiated upon complaint or *ex officio*.

(b) Questions

Do the Turkish authorities take into consideration the criterion established in Article 5.6 of the WTO's A-D Agreement, according to which the authorities should proceed with the initiation of an investigation *ex officio* only if they have sufficient evidence of dumping, injury and a causal link to justify such action?