

# WORLD TRADE ORGANIZATION

RESTRICTED

**G/ADP/W/392**

**G/SCM/W/402**

6 May 1996

(96-1784)

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

Original: Spanish

REPLIES TO QUESTIONS POSED BY HONG KONG<sup>1</sup> TO NICARAGUA  
CONCERNING THE LATTER'S NOTIFICATION<sup>2</sup> OF LAWS AND  
REGULATIONS UNDER ARTICLES 18.5 AND 32.6  
OF THE AGREEMENTS

The following communication was received on 25 April 1996 from the Permanent Mission of Nicaragua.

1. Nicaragua's notification stipulates that the Anti-Dumping Agreement will become national law as from the date when the ratification of the WTO Agreement is published in the Official Gazette and that Nicaragua applies the Central American Regulations on Unfair Business Practices and Safeguard Clause which are being reviewed to adjust them to the Agreement.

**(a) Has the ratification been published in the Official Gazette? If not what is the timetable?**

The Nicaraguan National Assembly has ratified the WTO Agreement and it has been published in La Gaceta, the official gazette of the Republic of Nicaragua.

**(b) After publication of the ratification, what is the legal status of the Agreement in the Nicaraguan legal system? Does it have the same force of law as any other domestic legislation in Nicaragua? Are A-D officials required, legally or otherwise, to abide by the Agreement? If the domestic legislation is in conflict with the Agreement, which will take precedence?**

The notification mentions that Nicaragua applies the Central American Regulations on Unfair Business Practices and Safeguard Clause which are being reviewed by the Central American authorities.

We can now confirm that the review of the Central American Regulations on Unfair Business Practices and Safeguard Clause has been completed and that the new version has been in force in Nicaragua since 12 March 1996.

Since the ratification of the Agreement on the WTO has now been published in La Gaceta, Nicaragua's official gazette, the Anti-Dumping Agreement has the force of law.

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<sup>1</sup>G/ADP/W/350-G/SCM/W/358.

<sup>2</sup>G/ADP/N/1/NIC/1 and G/SCM/N/1/NIC/1.

In Nicaragua, international treaties take precedence over domestic legislation. If the Central American Regulations on Unfair Business Practices and Safeguard Clause were found to conflict with the Anti-Dumping Agreement, the latter would take precedence.

- (c) **What is the legal status of the Central American Regulations on Unfair Business Practices and Safeguard Clause in the Nicaraguan legal system? Do they have the same force of law as any other domestic legislation in Nicaragua? Are A-D officials required, legally or otherwise to abide by the provisions of the Central American Regulations in the conduct of A-D proceedings?**

The Central American Regulations on Unfair Business Practices and Safeguard Clause have been in effect in Nicaragua since 12 March 1996 and have the force of law.

Every Nicaraguan official must abide by the provisions of the Anti-Dumping Agreement which is the law in Nicaragua. Under the domestic legal system, once legislation has entered into force, no one can plead ignorance of the law.

- (d) **Do the Central American Regulations on Unfair Business Practices and Safeguard Clause have the force of law in Nicaragua? If so, is it intended to notify them?**

The Central American Regulations on Unfair Business Practices and Safeguard Clause have the force of law, have been in effect since 12 March 1996 and will shortly be notified to the WTO.

- (e) **If a provision of the Central American Regulations on Unfair Business Practices and Safeguard Clause is in conflict with the Anti-Dumping Agreement, which will take precedence?**

In Nicaragua, international treaties take precedence over domestic legislation. In the event of a conflict between the Central American Regulations on Unfair Business Practices and Safeguard Clause, which have been in force in Nicaragua since 12 March 1996, and the Anti-Dumping Agreement, the latter would take precedence.

The Central American Regulations on Unfair Business Practices and Safeguard Clause have been reviewed to adjust them to the Agreement. There is no possibility of conflict.

- (f) **What is the timetable of the review of the Central American Regulations on Unfair Business Practices and Safeguard Clause?**

The review of the Central American Regulations on Unfair Business Practices and Safeguard Clause has been completed. These new Regulations have been in force in Nicaragua since 12 March 1996.

**2. What judicial review procedures has Nicaragua put in place in observance of its obligations under Article 13 of the WTO's Anti-Dumping Agreement?**

Nicaragua has not put in place any judicial review procedures in connection with anti-dumping measures.

The judicial mechanisms or procedures will be defined in Nicaragua's Foreign Trade Act which is currently being debated in parliament.

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

If the General Council of the WTO adopts Panel Reports, Nicaragua will respect the obligations clearly laid down in the Understanding on Rules and Procedures Governing the Settlement of Disputes.