

WORLD TRADE ORGANIZATION

RESTRICTED

G/ADP/W/84

G/SCM/W/93

11 October 1995

(95-3004)

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

Original: English

QUESTIONS CONCERNING THE NOTIFICATIONS PROVIDED BY
THE GOVERNMENT OF BRAZIL¹ OF LAWS AND REGULATIONS
UNDER ARTICLES 18.5 AND 32.6 OF THE AGREEMENTS

The following communication, dated 29 September 1995, has been received from the Permanent Mission of Australia.

Please find enclosed the written questions submitted by Australia in view of the legislation review to be carried out in the next meeting of the Anti-Dumping and Countervailing Measures Committees.

Could Brazil provide clarification on the following points regarding the incorporation of the WTO Anti-Dumping and Subsidies Agreements into the Brazilian legal system.

- (a) What is the hierarchy between these WTO agreements and other Brazilian legislation, regulations, and other administrative rules?
- (b) Will subsequent laws (including regulations and other administrative rules) take precedence over the WTO agreements? For example, would the foreshadowed new regulation take precedence over the WTO agreements if a court found that there was a conflict?
- (c) In the absence of a specific provision in regulations, which levels of officials would have the authority to interpret the WTO agreements to determine procedure in an anti-dumping or countervailing duty action?
- (d) In the event of a conflict between the WTO agreements and other laws, could investigating officials decide which laws have precedence?
- (e) Can an interested party appeal to the courts about the interpretation of the WTO agreements by officials?
- (f) How would Brazil handle a conflict in views over the interpretation of the WTO agreements between a Brazilian court and the WTO Dispute Settlement Body?

¹G/ADP/N/1/BRA/1-G/SCM/N/1/BRA/1.