

REPLIES TO QUESTIONS POSED BY THE UNITED STATES¹
CONCERNING THE NOTIFICATION OF LAWS AND REGULATIONS
OF ROMANIA² UNDER ARTICLE 12.6 OF THE AGREEMENT

The following communication, dated 19 January 1996, has been received from the Permanent Mission of Romania.³

- Q.1 *Procedures for safeguards proceedings.* The notification indicates (in Art. 6 of Decree 228/7 and Chapter V of the Working Rules) that safeguard investigations are to be carried out by a commission consisting of certain government officials.
- (a) What procedures are followed by the commission in conducting an investigation and arriving at a safeguards recommendation? For example, what provision is there for reasonable public notice and a means for interested parties to present their views?
- (b) Article 14, para. 2 of Joint Order No. 128 provides that a determination may be made by the commission *ex officio*, or upon request of national producers of like or directly competitive products or their associations. What are the procedures for the filing of requests by producers or associations and what information must be included in a request?
- A.1 The present safeguards regulations do not cover all rules and procedures provided for in the Safeguards Agreement. However, Article 15 of the Rules annexed to the Joint Order No. 128/1992 stipulates that "No matter where in these Rules there are not mentioned express provisions, GATT provisions are to be applied...". At present, Romania also applies the results of the Uruguay Round, following ratification through Law No. 133/1994 of the Agreement Establishing the WTO, which includes, in Annex 1, the Safeguards Agreement. Under these circumstances, reference to "application of GATT provisions" of Article 15 of the Rules is understood as "application of the WTO rules".

As a result, the rules and procedures the Commission for Anti-Dumping, Countervailing Duties and Safeguard Measures follows in cases where it receives requests from national industry

¹G/SG/W/61.

²G/SG/N/1/ROM/1.

³See also General Statement of Romania (document G/SG/W/123), to be read in conjunction with this document.

or in cases where it acts *ex officio*, as well as the information to be included in the requests, will take into consideration the relevant provisions of the Safeguards Agreement.

Q.1 (c) Chapter V of the Working Rules states that requests to establish safeguard measures must be “solved” within three months. What is the meaning of “solved”? Does it include the final decision on whether to provide relief, or is it limited to the determination of injury or some other event?

A.1 (c) The expression "solved within three months" refers to taking a final decision in introducing or not introducing safeguard measures.

Q.2 *Standard for determining increased imports and serious injury.* Article 14, para. 5 of Joint Order No. 128 provides that the volume of imports during a period of 2-3 years, compared to the last 4-6 months (which are not included in the 2-3 years) shall be examined. Is it appropriate to use, in all cases, a 4-6 month period as indicative of increased imports, in light of the fact that:

- products and industries have different business cycles, many of which extend well beyond a period of 4-6 months
- trade data over a period of 4-6 months can be greatly influenced by short-term aberrations in trade that do not truly reflect significant economic trends.

Article 14, para. 5 of Joint Order No. 128 lists several factors that will be examined in considering the condition of the domestic industry, but does not include all the factors listed in Article 4.2(a) of the Agreement on Safeguards. Will the commission evaluate all the factors in Article 4.2(a) in determining whether there is injury?

A.2 When evaluating the existence of the injury, the Commission will take into consideration all factors mentioned in Article 4, paragraph 2(a) of the Safeguards Agreement. As a result, the period of reference for data collection will be established also by taking into account the nature of the products under investigation.

Q.3 *Imposition of safeguard measures.* Chapter V of the Working Rules provides that quotas are established by the Minister of Trade and Tourism and surcharges are established by the regulations in force by Government Decision at the proposal of the Ministry of Trade and Tourism and the Ministry of Economy and Finance. However, little else with regard to the imposition of safeguards measures is specified.

(a) In particular, how does Romania intend to implement the following requirements of the Agreement on Safeguards:

- (i) Article 5: application of safeguard measures (including limitations on the use and structure of quantitative restrictions);
- (ii) Article 6: provisional safeguard measures;
- (iii) Article 7: duration and review of safeguards measures?

A.3 (a) Concerning the imposition of safeguard measures, Romania will take into account the relevant provisions of the Agreement on Safeguards.

All issues raised by the US questions are covered by the provisions of the new draft law which are formulated in compliance with the rules in the WTO Agreements related to anti-dumping, subsidies and safeguards.

- Q.3 (b) Also, what are “the regulations in force by Government Decision” with regard to surcharges referenced in Chapter V?
- A.3 (b) We think the problem appeared due to translation. The original text makes reference to the decisional level authorized to introduce surcharges.