

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Special Distribution

Committee on Subsidies and
Countervailing Measures

Original: Spanish

INFORMATION ON INTERPRETATION AND APPLICATION OF THE AGREEMENT

Legislation of Chile

Revision

The following communication dated 18 November 1985 has been received from the Permanent Delegation of Chile.

The Permanent Delegation of Chile is pleased to inform the Committee on Subsidies that, at its meeting No. 1681 of 11 October 1985, the Executive Board of the Central Bank of Chile amended Chapter XXIV of the Compendium of Rules on Imports.

The following revision is being submitted in view of the fact that the changes made affect the Regulations for the investigations referred to in the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the GATT, and in compliance with Article 19:5(b) of the said Agreement (Subsidies Code).

DIARIO OFICIAL DE LA REPUBLICA DE CHILE

Wednesday, 21 October 1981

DESIGNATES NATIONAL AUTHORITY COMPETENT TO INITIATE AND CONDUCT
INVESTIGATIONS REFERRED TO IN THE AGREEMENT ON INTERPRETATION AND
APPLICATION OF ARTICLES VI, XVI AND XXIII OF THE GENERAL AGREEMENT ON
TARIFFS AND TRADE

No. 742 - Santiago, 15 October 1981. Having regard to: Act No. 9332 published in the Diario Oficial of 23 March 1949; Decree No. 229 of 1949 of the Ministry of Foreign Affairs, published in the Diario Oficial of 23 March 1949; the Official Declaration relating to Decree No. 229 of 1949 of the Ministry of Foreign Affairs; Decree No. 286 of 1950 of the Ministry of Foreign Affairs, published in the Diario Oficial of 30 May 1950; Decree No. 409 of 1952 of the Ministry of Foreign Affairs, published in the Diario Oficial of 3 October 1952; Decree No. 274 of 1962 of the Ministry of Foreign Affairs, published in the Diario Oficial of 17 August 1962; Decree-Law No. 3567, published in the Diario Oficial of 30 January 1981; Decree No. 300 of 1981 of the Ministry of Foreign Affairs, published in the Diario Oficial of 13 June 1981; and Decree No. 10 of the Ministry of Finance of 2 January 1967 and subsequent amendments thereto,

I hereby decree as follows:

Article 1 - Without prejudice to the powers of the President of the Republic to fix countervailing duties, the Central Bank of Chile is hereby designated the national authority competent to initiate, conduct and conclude investigations referred to in the "Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade".

Article 2 - In accordance with the provisions of the "Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade", the Central Bank of Chile shall lay down the rules which shall govern the said investigations.

For review, communication and publication.

AUGUSTO PINOCHET UGARTE, General of the Army, President of the Republic. Sergio de Castro Spikula, Minister of Finance.
René Rojas Galdames, Minister for Foreign Affairs.

DECISION ADOPTED BY THE EXECUTIVE BOARD
OF THE CENTRAL BANK OF CHILE AT ITS MEETING No. 1681,
HELD ON 11 OCTOBER 1985

REGULATIONS FOR THE INVESTIGATIONS REFERRED TO IN THE AGREEMENT
ON INTERPRETATION AND APPLICATION OF ARTICLES VI, XVI AND XXIII
OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE

1. The purpose of these Regulations is to establish the rules which shall govern investigations by the Central Bank of Chile to determine the existence of export subsidies which may be granted in other countries and which may cause or directly threaten material injury to a productive activity in the country, all the foregoing in accordance with the Agreement mentioned in the title, hereinafter called "the Agreement", which was approved by Decree-Law No. 3567 of 1980 and which is referred to by Supreme Decree of the Ministry of Foreign Affairs No. 300 of 1981.

2. A "Commission" shall be responsible for hearing any complaints that may be lodged concerning the existence of injury because of an export subsidy, and for ordering the initiation of the relevant investigation when there is sufficient evidence to justify it. The said investigation, if called for, shall be carried out by the Director of Operations of the Central Bank of Chile.

The "Commission" shall be composed of the following representatives of the Central Bank of Chile: the Director of Operations, who shall be its Chairman; the Legal Counsel, who in the absence of the former shall replace him; and the Manager of the Research Department; and, in addition, of a representative of the Ministry of Finance, a representative of the Ministry of Economy, Development and Reconstruction, the Director-General for International Economic Relations of the Ministry of Foreign Affairs, the National Director of Customs and the Inspector-General of the National Economy, each of whom shall have a duly appointed alternate.

The quorum needed for a meeting shall be five persons, always including the Chairman or his substitute; and the vote of each member shall be indicated in the official record of the meeting along with an explanation of the reasons for any minority votes. In case of a tie, the Chairman's vote shall be decisive.

3. The complaint concerning the existence of injury because of an export subsidy shall be lodged with the Directorate of Operations by any natural or legal person to whom such subsidy causes or threatens material injury.

4. The person lodging the complaint of injury because of an export subsidy shall furnish such particulars as the said Directorate of Operations may request and, in any case, those specified in the complaint form annexed to these Regulations.

5. When a complaint has been lodged, the Directorate of Operations shall bring it to the notice of the "Commission" so that the "Commission" may decide within a period of thirty days whether there is sufficient evidence to justify initiating an investigation and, if so, instruct the Directorate of Operations to begin examining and processing the complaint immediately. The existence or non-existence of such sufficient evidence shall be affirmed in a resolution of the "Commission" which shall be communicated to the complainant, by registered letter addressed to the domicile stated in the complaint, within five working days following the date of its adoption.

6. Within ten working days after the initiation of an investigation, the General Secretariat of the Central Bank shall publish in the Diario Oficial an extract of the particulars constituting the grounds for the decision to proceed with such investigation. In every case, the said extract shall indicate the subsidies and goods which are the subject of the investigation.

7. Once the extract referred to in the preceding paragraph has been published in the Diario Oficial, and within forty-five days counting from the date of such publication, any person who has an interest at stake may submit to the Directorate of Operations particulars connected with the investigation concerned.

8. Such particulars relating to investigations into export subsidies as come into the possession of the Directorate of Operations shall be public unless they are by nature confidential or the interested party furnishing them has expressly requested that they should be kept private. Interested parties providing confidential information may be requested to furnish non-confidential summaries thereof. If they fail to do so, the "Commission" may disregard those particulars whose publication has been refused by the interested parties without due cause.

9. If at any time in the course of an investigation the Directorate of Operations considers that the particulars assembled do not demonstrate the existence of an export subsidy, or that the subsidy whose existence they demonstrate does not cause or threaten material injury to a productive activity in the country, or that these rules have not been complied with, it shall so inform the "Commission". The "Commission" may, in view of the particulars, resolve to reject the complaint in question, and in that event, within the next five working days, the resolution to that effect shall be communicated by registered letter to the complainant and an extract thereof shall be published in the Diario Oficial.

10. Within a period of fifteen calendar days counting from the dispatch of the registered letter of refusal to proceed with the investigation, to which reference is made in paragraph 5, or from the publication of the extract referred to in paragraph 9, as the case may be, the complainant or any interested party may request the Executive Board of the Central Bank of Chile to reconsider the resolution in question, pleading new particulars. In either case the Executive Board shall rule on the request or requests for reconsideration within twenty-one calendar days following the expiry of the period for requesting such reconsideration.

11. The Central Bank shall communicate through the Ministry of Foreign Affairs, to the country contracting party or countries contracting parties to the General Agreement on Tariffs and Trade whose measures in favour of exports are to be investigated, the fact that this is to happen. A list of the exporters involved shall be supplied to the said countries contracting parties so that they may notify the said exporters. In addition, the Directorate of Operations shall notify by registered letter the exporters and importers known to it to have an interest.

12. For the investigation of an alleged injury because of an export subsidy the "Commission" shall, if it sees fit, endeavour to obtain from self-administered public or semi-public services, State enterprises or other agencies in which the State is represented or participates, and from private parties who may have an interest of any kind in the outcome of the investigation, such information, reports and particulars as it deems necessary for the purpose.

13. While an investigation is in progress the "Commission" may as a provisional measure, on a report from the Directorate of Operations, require imports of the goods which are under investigation to take prior account of an Import Report issued by the Central Bank of Chile. Such Reports shall stipulate that the imports in question may be liable, even retroactively, in cases where this is permitted by the "Agreement", to countervailing duties. Such determination shall, within the following five working days, be communicated to the complainant by registered letter and an extract thereof be published in the Diario Oficial.

14. Without prejudice to the provisions of the preceding paragraph, if the "Commission" finds in the course of an investigation that the conditions prescribed in the "Agreement" for the adoption of measures not within the competence of the Central Bank of Chile are satisfied, it shall so inform the Minister of Finance. Such determination by the "Commission" shall, within the following five working days, be communicated to the complainant by registered letter and an extract thereof be published in the Diario Oficial.

15. Once the investigation of an alleged injury because of an export subsidy has been completed, as it must be within a period of not more than ninety days counting from the publication referred to in paragraph 6, the President of the Central Bank of Chile shall submit to the Minister of Finance a report setting forth the particulars and findings of the investigation.

The findings of the "Commission" shall, within five working days following the date of such report, be communicated to the complainant by registered letter and an extract thereof be published in the Diario Oficial.

In connection with the findings arrived at by the "Commission", referred to in the preceding paragraph, or with those referred to in paragraphs 9, 13 and 14 of this Chapter, the complainant or any other interested party shall have fifteen calendar days, counting from the relevant notification, within which he may request the Executive Committee of the Central Bank of Chile to reconsider such findings, submitting new particulars. Requests for reconsideration shall be settled by the Executive Committee within twenty-one calendar days following expiry of the period allowed for requesting the relevant reconsideration.

16. In the exercise of the functions referred to in these Regulations, the Central Bank of Chile shall comply, as appropriate, with the procedures and rules laid down in the "Agreement". The "Commission" shall establish the rules of procedure necessary for the performance of its functions.

17. In the event of the submission of forged or wilfully incomplete documents or the supply of false information in such documents or through any other channel, the Central Bank shall institute the appropriate proceedings or complaints.