

GENERAL AGREEMENT ON

RESTRICTED

ADP/1/Add.27/Suppl.1

20 July 1988

TARIFFS AND TRADE

Special Distribution

Committee on Anti-Dumping Practices

Original: Spanish

INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

Legislation of Mexico

Supplement

The following communication, dated 6 July 1988, has been received from the Permanent Mission of Mexico.

I have pleasure in forwarding to you herewith the text of the Decree published in the Diario Oficial de la Federación de México (Federal Official Gazette) on 19 May 1988, amending and supplementing the Regulations Against Unfair International Trade Practices.

We are communicating this Decree as a supplement to the documentation forwarded to you on 24 May 1988, for presentation to the Committee which administers the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade.

SECRETARIAT OF TRADE AND INDUSTRIAL DEVELOPMENT

Decree Amending and Supplementing the Regulations Against
Unfair International Trade Practices

I, MIGUEL DE LA MADRID H., President of the United Mexican States, in exercise of the powers vested in me by Article 89(1) of the Constitution of the United Mexican States, in keeping with the provisions made in Articles 7 and 19 of the Foreign Trade Regulatory Act Implementing Article 131 of the Constitution of the United Mexican States, and

CONSIDERING:

That experience in the application of the Regulations Against Unfair International Trade Practices and in the administration of the system of defence against such practices has shown the need for some amendments to those Regulations, in order to clarify their provisions and make them more operative;

That on 24 July 1987 our country signed the "Agreement on Interpretation and Application of Article VI of the General Agreement on Tariffs and Trade", also known as the Anti-Dumping Code, which instrument was ratified by the Senate of the Republic on 4 December of that same year, making necessary some adjustments to the Regulations in question; I have seen fit to issue the following:

DECREE AMENDING AND SUPPLEMENTING THE REGULATIONS AGAINST UNFAIR INTERNATIONAL TRADE PRACTICES

ARTICLE ONE. - Articles 1:VIII, 2:II(A), 12, 15, second paragraph, 16, first paragraph, 19, first paragraph, 20, 21, third paragraph, 28, and 31, first paragraph, of the Regulations Against Unfair International Trade Practices shall be amended to read as follows:

"ARTICLE 1.
I to VII
VIII. Injury to national production is the loss or impairment of a national asset or the closure of access to any licit, normal gain which one or several domestic producers, representing a significant part of national production, suffer or may suffer as an immediate and direct consequence of any of the unfair international trade practices envisaged in Article 7 of the Act and in these Regulations. This concept includes impediments to the establishment of new industries or to further development of existing industries as a direct result of unfair international practices."

"ARTICLE 2.
I.
II.
(A) The highest comparable price for identical or similar goods exported to a third country in the normal course of trade, provided it is a representative price; or

(B)
.....
....."

"ARTICLE 12. In those cases referred to in Article 14 of the Act, countervailing duties shall be fixed finally only if as a result of its investigation into the possible existence of unfair international trade practices the Secretariat reaches the conclusion that injury or the threat thereof to the domestic production apparatus exists or that impediments to the establishment of industrial undertakings have arisen owing to import operations already effected or that may be effected under the same conditions."

"ARTICLE 15.
The notice referred to shall allow a period of not less than fifteen working days for filing of the written representations of interested parties."

"ARTICLE 16. By means of the Resolution referred to in Articles 13 and 15 of these Regulations the Secretariat shall:

(A) and (B)"

"ARTICLE 19. The investigation into unfair international trade practices shall focus on the existence of dumping or subsidization and the damage caused or likely to be caused to national output. It shall consider imports of goods identical or similar to possibly affected domestic products during a representative period prior to commencement of the investigation, while also taking into account of any other factors relevant to its outcome.
....."

"ARTICLE 20. Within the thirty-day period referred to in Article 12 of the Act, the Secretariat shall review the matters on which it based its provisional resolution and any supplementary information furnished by the producers, importers and exporters affected, or by representatives of the government of the country of origin or provenance of the subject goods.

Following this review, the Secretariat may:

I. Where an administrative investigation has been declared to be opened, without a provisional countervailing duty having been imposed:

- (a) continue with this when the facts of the case that gave rise to that decision have not altered;
- (b) decide to impose a provisional countervailing duty, in accordance with Article 16(B) of these Regulations; or
- (c) declare that the administrative investigation is terminated when no unfair practice is deemed to exist.

- II. Where a provisional countervailing duty has been imposed:
 - (a) confirm the amount of the countervailing duty previously fixed, when the facts of the case that gave rise to that duty have not altered;
 - (b) change the amount of the provisional countervailing duty previously fixed, when there has been any variation in the margin of dumping or the subsidization provided; or
 - (c) revoke the provisional countervailing duty, when a conclusion is reached that no unfair practice is involved, in which case the investigation shall be terminated.

In the situations indicated in sub-paragraphs (b) and (c) of paragraph II, the Secretariat shall give instructions that any guarantees furnished shall be modified or cancelled, respectively, and, as the case may be, that amounts paid in respect of the countervailing duty shall be refunded if the new duty fixed is lower than that imposed initially.

Such refund or payment of amounts shall take place within a period not exceeding ten working days from the date of publication of the resolution in the Diario Oficial de la Federación.

The outcome of this review shall be announced in the Diario Oficial de la Federación."

"ARTICLE 21.

The Secretariat may use the services of specialist assessors to assist it in its investigation and checking of the data and other material it requires before it can issue a resolution of any kind.

....."

"ARTICLE 28. Once the investigation into unfair international trade practices is concluded, the Secretariat shall send the record in the case and a preliminary draft of a final resolution to the Commission on Tariffs and Trade for its opinion as to what the content of the final version of the resolution ought to be and, where appropriate, on the amount of the final countervailing duty to be fixed.

Once the Commission on Tariffs and Trade has arrived at an opinion, it shall return the record in the case to the Secretariat so that the latter may draw up the resolution in accordance with the opinion given by the Commission. This resolution shall be issued by the person in charge thereof who shall order it to be published in the Diario Oficial de la Federación.

....."

"ARTICLE 31. When the exporter of the dumped or subsidized goods undertakes, in his own capacity or, as the case may be, through his government, to adjust his prices or cease his export operations, or if the government of the exporting country abolishes the subsidy in question or permits the exporter to adjust his prices and thereby cancel out their damaging effects, the investigation into unfair international trade practices may be suspended or declared terminated, provided prior consent is obtained from the Commission on Tariffs and Trade, in which case the resolution in the case shall incorporate the undertaking assumed and the consenting opinion given.

.....
.....

ARTICLE TWO. An additional sub-paragraph shall be inserted in Articles 17 and 18, and a new Article 32 shall be added as follows:

"ARTICLE 17.
(a) to (d)
(e) A notice to importers, exporters and representatives of foreign governments, and likewise to persons possessing a legal interest in the outcome of the investigation, to appear before the Secretariat to claim any rights they may allege in the matter."

"ARTICLE 18.
(a) to (h)
(I) A notice to importers, exporters and representatives of foreign governments, and likewise to persons possessing a legal interest in the outcome of the investigation to appear before the Secretariat to claim any rights they may allege in the matter."

.....

"ARTICLE 32. The final resolution shall be reviewed, at the request of a party or ex officio, annually or at any time, if there are justified causes for so doing."

TRANSITORY PROVISIONS

SOLE PROVISIO: This Decree shall come into effect on the day following its publication in the Diario Oficial de la Federación.

Given at the headquarters of the Executive Branch of the Federation, Mexico City, on 27 April 1988. Miguel de la Madrid H. [Secretary of Trade and Industrial Development, Héctor Hernández Cervantes, Secretary of the Treasury and Public Credit, Gustavo Petricioli Iturbide].