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Committee on Anti-Dumping Practices

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QUESTIONS RAISED BY BRAZIL ON THE ANTI-DUMPING LEGISLATION OF MEXICO¹

The following communication has been received by the secretariat from the Permanent Mission of Brazil.

With respect to the Foreign Trade Regulatory Act Implementing Article 131 of the Constitution of the United Mexican States, Brazil would like to pose the following questions:

- (a) What is the approach taken by the Mexican authorities to make Article 1, paragraph II, letters a, b, and d, which deals, respectively, with prior authorization, quotas and prohibitions on import or export of goods, compatible with Articles III, VIII, X, XI and XIII of the GATT? The above-mentioned Article is "in totum" in conformity with the reservations made by Mexico at its accession to GATT?
- (b) The provision of Article 5, paragraph 5, will be implemented in accordance with the rules and criteria of the Subsidies and Dumping Codes or rather involve other circumstances? In this case, which are the practices comprised by these measures and by what means are they going to be implemented?
- (c) In Article 10, the legislation provides that producers of products similar to those being imported or which it is proposed to import in circumstances involving "unfair trade practices". In Article 7, the legislation considers "unfair international trade practices" imports of products at less than the comparable price of identical or similar goods intended for consumption in the country of origin or provenance. In view of what it is stated, how the investigating authorities will compare the price of the imported goods with the normal value in case of products intended to be imported?
- (d) What is the criteria adopted by the Mexican authorities in order to establish the percentage of "at least 25 per cent", indicated in the caput of Article 10?

¹ADP/1/Add.27 + Suppl.1 and Corr.1

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- (e) In Article 11, the Mexican legislation refers to a "provisional resolution" for the application of countervailing duties. It is not very clear, however, if and when such measure will only be applied after the official announcement of the initiation of an investigation was published, as provided by Article 6:6 of the Anti-Dumping Code? Could it be understood that it is simultaneous? How the Mexican authorities justify the issuance of a "provisional resolution" within five working days starting from the filing of a complaint in the light of the Codes?
- (f) Article 13 does not seem very elucidative as for the time limits adopted for purposes of imposing provisional and definitive duties as well as for their duration. Will the time limits foreseen in the Codes be respected?

Relating to the "Regulations Against Unfair International Trade Practices", Brazil would like to pose the following questions:

- (a) By the language used in Article 11, one could understand that the countervailing duty, provisionally applied, may be modified. Therefore, what is the Mexican authorities' interpretation to the phrase "... taking the necessary steps to notify the interested parties of the new situation?"
- (b) The aspect relating to consultation are not very clear. What are the procedures to be adopted in this respect and are they compatible with Article 3 of the Subsidies Code?