

GENERAL AGREEMENT ON

RESTRICTED

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TARIFFS AND TRADE

Special Distribution

Committee on Subsidies and
Countervailing Measures

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INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

Legislation of Colombia

The following communication has been received from the Permanent Mission of Colombia.

Pursuant to Article 2.2 of the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade, known as the Subsidies Code, Colombia notifies the following:

- (1) The competent national authority for pursuing investigations in connection with subsidies and countervailing duties is the Colombian Foreign Trade Institute, INCOMEX;
- (2) Decree No. 2444, of 17 October 1990, laid down the procedural framework for such investigations, and is attached hereto, together with the "Handbook of Complaint Procedures" which expounds it;
- (3) The changes made in Colombian national laws and regulations relevant to the Subsidies Code are contained in the Decree and Handbook mentioned above in paragraph (2); the provisions of Article 19.5(b) of the Subsidies Code are thus satisfied.

INCOMEX

Bogotá, 8 March 1991

Ambassador Felipe Jaramillo
Permanent Mission of Colombia
Geneva

Dear Mr. Ambassador,

I have pleasure in sending you herewith our report for submission to the GATT Committee on Subsidies and Countervailing Measures, pursuant to Colombia's accession to the GATT Subsidies Code.

1. The Government of Colombia has adopted national legislation not only on subsidies but also on dumping, and therefore Decree 2444 of 1990, which we attach hereto, covers both practices, even though Colombia has not become a party to the Anti-Dumping Code.

Contents of the Decree

The Decree has a number of chapters. The first concerns its object, and lays down some principles to be used in the interpretation of the rest of the Decree. The second defines dumping and establishes rules for calculating the export price, market value and margin of dumping. The third defines subsidies and lays down rules for determining them. Chapter 4, which contains common provisions for earlier chapters, specifies when anti-dumping or countervailing duties may be established, defines a "like product", establishes rules for examining whether there is injury or threat of injury to domestic industry and defines the latter. Chapter 5 lays down the procedure for establishing anti-dumping or countervailing duties, whether provisional or final, and creates the Trade Practices Committee. Finally, Chapter 6 contains provisions on the application and interpretation of the Decree and the international treaties binding on Colombia and relating to the same subject.

Institutional organization

With regard to the institutions responsible for implementation of the Decree, INCOMEX is mentioned as being the competent body responsible for carrying out the relevant investigations. The Decree establishes a Trade Practices Committee to evaluate the results of the investigation and provides that the Ministry of Economic Development is the authority responsible for deciding on the definitive imposition of anti-dumping or countervailing duties.

More specifically, the Decree provides that:

INCOMEX:

establishes procedures, forms and other requirements
initiates ex officio investigations
receives and evaluates complaints
opens investigations
orders the imposition of provisional duties
reports to the Committee on Trade Practices on the results of investigations
monitors the effects of the duty on import trends
supervises implementation of offers.

Trade Practices Committee

forms conclusions on the investigations
reports to the Foreign Trade Management Council on the results of investigations
extends the time-limits of investigations
evaluates statements of intent.

Ministry of Economic Development

accepts offers
adopts the appropriate decisions
establishes final duties.

Directorate-General of Customs

assesses and collects provisional and final duties.

Within INCOMEX, the department responsible for carrying out investigations is the TRADE PRACTICES DEPARTMENT, which has three divisions:

- The Injury Division must establish a causal relationship between the import effected at dumping prices or subsidized import and the injury or threat of injury to domestic production of the same product or the like product.
- The Dumping and Subsidy Division is responsible for determining the existence and nature of the practice concerned.
- The Legal Affairs Division is responsible for ensuring consistency of criteria and legality in the procedures of the various investigations.

2. Our legislation establishes the following procedure:

Complaints

Requests for an investigation may be submitted by any person who demonstrates a legal interest. INCOMEX may also carry out an investigation ex officio.

The factual basis for a request must refer to imports effected within the previous six months prior to the submission of the complaint or still taking place.

Forms

The request is made by means of the forms supplied by the INCOMEX Trade Practices Department. The purpose of these forms is to obtain information so as to identify:

- the parties involved and the product concerned by the investigation;
- in the case of dumping, information on import prices and normal value, so that the margin of dumping may be calculated;
- in the case of subsidies, information on the agencies involved and the way in which the subsidy is granted;
- information substantiating the injury and the causal relationship between the import carried out and the unfair practice and injury (effect in terms of prices, share of imports in the domestic market, damage incurred by the complainant).

The complainant is asked to supply the basic information; nevertheless, INCOMEX may on its own initiative request the other parties involved to submit information and evidence. Although the information supplied is presumed to be accurate, it must be verifiable by means of the relevant documents supplied by the complainant. Under this procedure the burden of proof rests with the complainant, and the defendant must disprove the evidence brought against him. If the defendant fails to provide the information requested from him during the investigation, proceedings will continue on the basis of the best information available.

Procedure

The investigation has four stages:

- Receipt of the request in proper form. If the complainant does not meet the requirements laid down by Article XVI, INCOMEX will only once request, clarifications or additional information, and the complainant has two months within which to provide the information requested. After that time-limit, if the additional information is not furnished, INCOMEX may consider that the complainant withdraws his request, which will not be followed up.
- Evaluation of the request: This stage can last up to two months, and is devoted to clearly establishing whether there are grounds for opening an investigation.
- Opening of the investigation: If the evaluation of the request indicates that it is well-founded, an investigation will be opened; it may last for up to nine months, with a possible extension of a further three months in exceptional circumstances, after which final duties may or may not be imposed.

The procedure provides for two instances for achieving mutually agreed solutions:

- in the case of subsidies, consultations between governments, which may take place at any time after INCOMEX receives the complaint in proper form;
- statements of intent, in which, in cases both of subsidies and of dumping, the foreign producer or exporter or authorities undertake to remedy the unfair practice.

Throughout the procedure INCOMEX, through its hearings, provides a forum for those concerned to express their view of the problem and, if appropriate, state their intention to adopt measures which may avert or reduce the imposition of duties.

3. Since the Decree has only been in force for seven months, so far two requests have been received but no investigation has yet been opened.

We trust that this information, together with Decree 2444 and the relevant forms, which we annex hereto, fully satisfy your concerns in this regard.

Yours sincerely,

Marta Lucía Ramírez De Rincón
Director-General

Annexes: - Decree 2444 of 17 October 1990
- Forms to be used for submitting a request

MINISTRY OF ECONOMIC DEVELOPMENT

DECREE NUMBER 2444
of 17 October 1990

"Establishing Provisions Governing Anti-Dumping
and Countervailing Duties"

THE PRESIDENT OF THE REPUBLIC OF COLOMBIA

In the exercise of his constitutional powers, and in particular those conferred upon him by Article 120, paragraphs 3 and 22, of the Political Constitution, in conformity with Law 49 of 1981 and pursuant to Law 48 of 1983, and

CONSIDERING:

1. That by Law 49 of 1981 the National Congress approved the Protocol for the Accession of Colombia to the General Agreement on Tariffs and Trade (GATT), Article VI of which confers and regulates the power of establishing anti-dumping and countervailing duties;
2. That Article 9 of Law 48 of 1983 instructs the National Government to lay down the rules by virtue of which the State should protect domestic industry and avert injury stemming from unfair foreign trade practices;
3. That it is necessary to designate the competent bodies and establish the procedures for defending domestic industry against unfair foreign trade practices, inter alia by fixing anti-dumping and countervailing duties;
4. That countervailing and anti-dumping duties are measures that have been universally recognized as suitable and their application is open to all member countries of the General Agreement on Tariffs and Trade as an accepted practice to redress distortions stemming from subsidies or dumping practices.

DECREES

CHAPTER ONE

OBJECT

Article 1: OBJECT. The purpose of this Decree is to facilitate the development and application of international treaties and bring domestic legislation into line with changes in international trade, in order to avert the injury to domestic industry that stems or may stem from dumping, which is an unfair practice, or from subsidies, by means of the imposition of anti-dumping or countervailing duties.

Anti-dumping or countervailing duties are imposed in the public interest, for preventive and corrective purposes, and in general for any person importing the goods on which such duties are applied; notwithstanding this general application, individuals must show a legal

interest in order to request the initiation of administrative proceedings or to take part in them, and the duties may be imposed with respect of imports coming from a specific person abroad.

Paragraph. Cases of under-invoicing of imports and the responsibility of the Director-General of Customs to deal with such cases continue to be governed by the specific provisions in force in that regard.

Investigations into under-invoicing of imports by the Director-General of Customs may be carried out at the same time as investigations relating to dumping or subsidies by the Colombian Foreign Trade Institute, INCOMEX.

As long as INCOMEX has not decided to open an investigation relating to the imposition of anti-dumping or countervailing duties with regard to an import, it may not be argued before the Director-General of Customs that proceedings being conducted by that Director-General should be subject to the procedure and decisions provided for in this Decree.

If, in the course of administrative proceedings, INCOMEX has information that leads it to believe that under-invoicing may exist, it will send on its own initiative a copy of all relevant documents to the Director-General of Customs, without prejudice to the continuation of proceedings with regard to matters within its own competence. The Director-General of Customs shall apply the rules on confidentiality of documents provided for in Article 18 of this Decree.

CHAPTER II

DUMPING

Article 2. CONCEPT. An import is considered as being dumped when the export price is less than the market value for the like product when destined for consumption in the country of origin or of export in the ordinary course of trade.

Article 3. EXPORT PRICE. Export price means the price actually paid or payable for the product sold for export to Colombia.

Paragraph 1. In cases where there is no export price or where it appears to INCOMEX that the export price is unreliable because of association or a compensatory arrangement between the exporter and the importer or a third party, the export price may be constructed on the basis of the price at which the imported products are first resold to an independent buyer. If the products are not resold to an independent buyer, or not resold in the condition as imported, the price may be constructed on such reasonable basis as INCOMEX may determine.

Paragraph 2. In the calculation of the export price, the necessary adjustments shall be made to allow for all costs incurred prior to resale, including all duties and taxes and a reasonable margin of profit. Such adjustments shall include, inter alia, the cost of transport, insurance, maintenance, loading and unloading; import duties and other taxes incurred

after export from the country of origin; a reasonable amount for general expenses and administrative and selling costs; a reasonable amount for profits, and any commissions usually paid or agreed.

Article 4. MARKET VALUE. For the purposes of this Decree, market value means the price actually paid or payable for the like product to the product imported into the country, when sold for consumption in the domestic market of the country of origin or of export in the ordinary course of trade. "In the ordinary course of trade" means transactions carried out between independent parties.

Consequently, transactions between parties that are associated or have reached a compensatory arrangement between themselves are not considered to be transactions in the ordinary course of trade, provided the prices and costs are not comparable to those obtained in transactions in the ordinary course of trade between independent parties.

Paragraph 1. Where there are no sales of the like product in the ordinary course of trade in the domestic market of the country of origin or of exports, or when such sales do not permit a valid determination of the market value, the latter shall be determined:

- (a) By considering the highest export price for the like product exported to a third country, provided it is representative.
- (b) Failing the above, by considering the constructed price for the like product. This shall be based on the cost of production in the ordinary course of trade in the country of origin, plus a reasonable amount for administrative and selling costs and for profits. As a general rule, the addition for profit shall not exceed the profit normally realized on sales of products of the same category in the domestic market of the country of origin.
- (c) In the case of imports coming from and originating in countries with centrally-planned economies, the market value shall be determined on the basis of the comparable price in the ordinary course of trade at which the like product is actually sold to a third country with a market economy for domestic consumption. If the market value cannot be determined in the above way, it may also be established on the basis of the amount of factors of production and inputs necessary to obtain a specific quantity of the same product in a market-economy country of a comparable level of economic development and having a significant production of the like product. In determining prices or costs, the prices or costs of that amount of factors of production and inputs in the country of reference may be used. The factors of production and inputs may include, for example, the hours of work required, raw material used, energy and other inputs consumed and capital costs, including depreciation.

Paragraph 2. In the case where products are not imported directly from the country of origin but from a third country, the price at which the products are sold from the country of export to Colombia shall normally be

compared with the comparable price in the country of export. However, comparison may be made with the price in the country of origin if, for example, the products are merely trans-shipped through the country of export, or such products are not produced in the country of export, or there is no comparable price for them in the country of export.

Paragraph 3. The sale price in the domestic market in the country of origin or of export is presumed not to arise in the ordinary course of trade when mechanisms exist to support the income of producers and/or other agents connected with the internal marketing process, by means of which the government of that country guarantees them an income higher than the market sale price. In that case, the market value shall be estimated:

- (a) By considering the highest export price of the like product when exported to a third country, provided it is representative and is not affected by mechanisms to support the income of producers and/or other agents connected with the internal marketing process of the product concerned.
- (b) Or failing such price, on the basis of the normal production costs in the country of origin plus a reasonable amount for general expenses, administrative and selling costs, a reasonable amount of profit and any commission usually paid or agreed. Alternatively, it may be estimated on the basis of normal production costs in a third country of a similar level of development, in which mechanisms do not exist to support incomes of producers and/or other agents connected with the internal marketing process of the product concerned.

Paragraph 4. The market value referred to in this Decree is the same as the notion of "normal value" employed in Law 49 of 1981.

Article 5. MARGIN OF DUMPING. Margin of dumping means the amount by which the export price is less than the market value. This margin shall be calculated per unit of product imported into the national territory at the dumping price.

The export price and the market value must be examined on a comparable basis as regards the physical characteristics of the product, quantities and conditions of sale and allowing for differences in taxation and for other differences affecting price comparability.

The two prices shall be compared at the same level of trade, normally at the ex-factory level, and in respect of sales made at as nearly as possible the same time.

Paragraph. If the export price and market value cannot be compared on the basis of the criteria mentioned in the above paragraphs, allowance shall be made, in each case, according to the specific circumstances, for the differences affecting comparability. Where a participant in the investigation requests that any such difference be taken into consideration, he must provide evidence in support of his request. The following criteria, inter alia, shall be used to determine such adjustments:

- (a) differences in the physical characteristics of the products;
- (b) differences in quantities, allowing for quantity discounts freely agreed in the ordinary course of trade during a representative period, and production cost of different quantities;
- (c) differences in conditions of sale, which may include differences in indirect taxes and duties, credit conditions, guarantees, form of technical assistance, after-sale services, commissions, packaging, transport, maintenance services, loading and related or other costs.

CHAPTER III

SUBSIDIES

Article 6. CONCEPT. An import is considered as having been subsidized when the production, manufacture, transport or export of the imported good or of its raw materials and inputs has received directly or indirectly any bounty, aid, premium or subsidy from the government of the country of origin or of export or from its public or semi-public agencies.

Multiple currency practices in the country of origin or of export may also be considered a subsidy.

Article 7. ELEMENTS FOR DETERMINING THE SUBSIDY. The amount of the subsidy shall be calculated in monetary units or percentages ad valorem per unit of subsidized product imported into the national territory.

The amount of the subsidy shall be established by deducting the following elements from the total subsidy:

- (c) any expenditure that has had to be incurred in order to be entitled to the subsidy or benefit from it;
- (b) export taxes, duties and other levies to which the export of the product to Colombia has been subjected and which are specifically intended to offset the subsidy;

When a participant in an investigation requests such deduction, he must supply evidence substantiating the request.

CHAPTER IV

COMMON PROVISIONS

Article 8. ANTI-DUMPING AND COUNTERVAILING DUTIES. In the exercise of the powers provided for in Article VI of Law 49 of 1981 and in Article 9 of Law 48 of 1983 and in accordance with the procedure established below, an anti-dumping duty may be determined and collected on the importation of any dumped product if it causes or threatens material injury to an industry in Colombia.

Likewise, a countervailing duty may be determined and charged in order to offset any subsidy granted directly or indirectly in the country of origin or of export on the manufacture, production, export or transport of any product of which the importation causes or threatens material injury to an industry in Colombia.

Paragraph. Anti-dumping or countervailing duties may be determined in accordance with Article 9 of Law 48 of 1983 even where injury or threat of injury to an established industry in Colombia has not been demonstrated, when no applicable international treaties on the matter exist. When exercising this power, consideration shall be given to whether evidence of injury or threat of injury to Colombian exports is or would be required in the country of export or of origin.

Likewise, when no applicable international treaties on the matter exist, consideration may be given to the administrative and legal definitions, methodology and procedures of legality, which are or would be applied to Colombian exports in the country of export or of origin.

Article 9. LIKE PRODUCT. "Like product" means a product which is identical, i.e. alike in all respects to the product under consideration, or a product which has characteristics mostly resembling those of the product under consideration, taking into consideration elements such as its nature, quality, use and function.

Article 10. INJURY INVESTIGATION. A determination of injury shall be based on sufficient evidence and shall involve an objective examination of the following factors:

- (a) Information on the industry of the product concerned considered as a whole.
 - (a1) Volume of dumped or subsidized imports, in particular to determine whether there has been a significant increase in absolute terms or relative to production or consumption in the country.
 - (a2) Impact of imports on prices of like products in the Colombian domestic market.
 - (a3) Effects of imports on actual or potential trends in the industry of the product with respect to factors such as output, utilization of capacity, productivity, inventories, sales, ability to raise capital or investment, employment and wages.
- (b) Information on the affected domestic producers, where appropriate.

Effects on production, utilization of capacity, productivity, inventories, sales, market share, profits, return on investment, cash flow, capitalization, employment and wages.

- (c) Information on producers or exporters.

Export price and market value of the product or information for calculating them in accordance with this Decree.

- (d) Information to determine the causal relationship between the imports and the alleged injury.

Paragraph 1. No one of the above factors is alone sufficient to obtain a definitive finding.

Paragraph 2. In the examination of injury, INCOMEX may cumulate imports coming from or originating in two or more countries in order to evaluate the volume and impact of such imports on the domestic industry, provided the following requirements are satisfied:

- (a) The countries from which the imports come have been the subject to investigation for dumping practices or subsidies during the previous twelve months;
- (b) The imported products compete with the like product produced in Colombia.

If the evaluation of cumulated imports indicates that their impact has been negligible and that they do not have a visible impact on the domestic industry, INCOMEX shall not cumulate such imports for the purposes of determining injury.

INCOMEX must consider all relevant economic factors, including the following:

- (a) whether the volume and share of imports in the market are insignificant;
- (b) whether imports of the product concerned are isolated or sporadic;
- (c) whether the Colombian market price is especially sensitive, by reason of the nature of the product, so that a small amount of imports may depress prices.

Article 11. EXAMINATION OF THREAT OF INJURY. Threat of injury shall be determined to exist when it is imminent. For this purpose, where a domestic industry exists, INCOMEX shall consider inter alia the factors mentioned in Article 10 of this Decree, and the possibility of a substantial increase in imports, provided the latter are effected at dumped prices or with subsidies.

Threat of injury is also considered to exist when imports retard materially the establishment of an industry in Colombia. In order to determine whether this is the case, INCOMEX shall examine, inter alia, the feasibility studies, negotiated loans and contracts for the purchase of machinery aimed at new investment projects or the expansion of existing plant.

Article 12. DOMESTIC INDUSTRY. In determining injury the term "domestic industry" shall be interpreted as referring to the domestic producers as a whole of the like products or to those of them whose collective output of the products constitutes a major proportion of the total domestic production of these products. However, when producers are related to exporters or importers of the allegedly dumped or subsidized product, the term domestic industry may be interpreted as referring to the rest of the producers.

Paragraph. In exceptional circumstances, the domestic industry may be divided into two or more separate markets. The producers within each market may be regarded as a domestic industry if they sell the bulk of their production of the product in question in that market, and if the demand in that market is not to any substantial degree supplied by producers of the product in question located elsewhere in the country.

In such circumstances, injury may be found to exist even where a major portion of the total domestic industry is not injured provided there is a concentration of dumped imports into such an isolated market and provided further that the dumped imports are causing injury to the producers of all or almost all of the production within such market.

CHAPTER V

PROCEDURES

Article 13. TRADE PRACTICES COMMITTEE. For the purposes of this Decree, there shall be established a Trade Practices Committee made up of a representative of the Foreign Trade Management Council and the entire Import Board, that is to say, the Director of INCOMEX, who shall chair it, the Deputy Director for imports and the three full-time members devoted exclusively to the work of the Board. As appropriate in each case, the Deputy Minister of the Ministry most closely related to the affected industry, in the opinion of the Chairman of the Committee, shall also be a member. The Committee shall inform the Foreign Trade Management Council of the result of the investigations. The Committee shall adopt its own rules of procedure.

The Deputy Director for trade practices shall act as Technical Secretary of the Committee.

Article 14. COMPLAINT. Any domestic producer who considers that he is injured or threatened by imports of the like product to the products he produces, effected during the previous six months prior to the request or still taking place at dumped prices or with subsidies, may apply to INCOMEX for an investigation and imposition of the appropriate anti-dumping or countervailing duties.

Paragraph. These requests may also be submitted by associations representing the affected producers and by other persons who show a legal interest.

Article 15. EX-OFFICIO INVESTIGATION. INCOMEX may carry out an investigation on its own initiative when it has information which gives it reason to presume the existence of injury or threat of injury caused to Colombian industry by dumped or subsidized imports.

Article 16. INITIATION OF THE INVESTIGATION. INCOMEX may initiate ex officio proceedings and individuals may submit their requests for an investigation, for preventive or corrective purposes, from the moment it can be proved that a dumped or subsidized operation has begun.

Article 17. COMPLAINT REQUIREMENTS. A request must be submitted in writing, in accordance with Article V of the Administrative Litigation Code and shall also contain at least the following particulars:

1. Description of the goods on which the importation is concerned.
2. Countries of origin or of export.
3. Name and domicile of the importers and exporters, if known.
4. Import prices and market value in the country of origin or of export.
5. Determination of the injury or threat to domestic production caused by the dumped or subsidized imports.
6. Offer to submit to the authorities the corresponding documents for verification of the information.
7. Indication of the evidence it is wished to adduce.

Article 18. CONFIDENTIALITY OF PRIVATE DOCUMENTS. When initiating the investigation a separate file shall be opened, in which shall be placed the letters, private papers, data or copies taken from account books and their annexes and all other private documents which the complainant or any of the interested parties has submitted or may submit to the authorities or which the latter have obtained or may obtain in the exercise of their legal powers. Such documents are confidential in accordance with Article 38 of the Political Constitution and may be inspected only by the authorities.

Persons who submit private documents may waive their confidentiality by writing to INCOMEX. The latter may request non-confidential summaries thereof, and parties failing to comply with such a request must explain their reasons.

The confidential nature of a document cannot be adduced as grounds for refusing to provide it to the authorities requesting it in the proper exercise of their functions. The authorities are responsible for ensuring the confidentiality of such documents as they receive in the course of the proceedings mentioned in this Decree.

Article 19. ACCESS TO THE RECORD. Any person may request and obtain access to the information on the steps taken by the authorities in the proceedings to which this Decree refers and to the non-confidential documents; and shall have the right to receive copies as provided for in the Administrative Litigation Code and Law 57 of 1985.

Article 20. EVALUATION OF COMPLAINT. If INCOMEX is satisfied from its examination of the complaint and any clarifications and additional information it may have requested, once only, that the requirements under Article 17 of the Decree have been met, it shall so inform the complainant. INCOMEX shall have a period of up to two months from the date of such communication to evaluate the complaint and may request and furnish evidence and information on its own initiative or at the request of the party concerned in order to establish clearly that there are grounds for opening an investigation.

Paragraph. As soon as possible after a request for a subsidy investigation is received in proper form, and in any event before the initiation of any investigation, the authorities of countries the products of which may be subject to such investigation shall be afforded an opportunity for consultations with the aim of clarifying the facts of the case and arriving at a mutually agreed solution between the Colombian authorities and those of the country of origin and of export.

Such opportunity shall also be afforded throughout the investigation.

Article 21. INITIATION OF INVESTIGATION. If, when evaluating the request, INCOMEX finds grounds for initiating an investigation, it shall take a formal decision to that effect. A public notice of such decision accompanied by a statement of reasons therefor shall be published within the time-limit established in the previous article, in the form provided for in Article 46 of the Administrative Litigation Code.

A copy of the decision shall be sent immediately to the complainant, the exporters of the goods that are the subject of the investigation, when their address is known, the importers known to be interested, and the diplomatic or consular representatives of the countries of export and of origin.

Paragraph. If INCOMEX does not find grounds for initiating an investigation it shall take a decision to that effect within the time-limit established in Article 20. It shall so notify the party concerned, with a statement of the reasons for its decision.

Article 22. TIME-LIMIT FOR THE INVESTIGATION. The authorities have a maximum period of nine months to carry out and complete the investigation, running from the date of publication of the decision for the initiation of the investigation.

In exceptional circumstances, the Trade Practices Committee may extend the time-limit of the investigation for a further three months.

Within that time-limit, and whenever it deems it desirable, INCOMEX may request and furnish evidence and information on its own initiative or at the request of any of the persons mentioned in the second indent of the previous article, or any other person who shows a legal interest in the investigation.

Article 23. PROVISIONAL DUTIES. If at any time after the initiation of an investigation INCOMEX makes a preliminary finding of the existence of dumping or a subsidy and of the existence of sufficient proof of consequent injury or threat of injury, it may, solely to prevent injury being caused or the threat of injury during the period of the investigation, by a resolution accompanied by a statement of reasons and only susceptible to direct revocation order the payment of provisional anti-dumping or countervailing duties for up to the provisionally estimated amount of the margin of dumping or subsidy on all imports of the product under investigation.

Such payments may be replaced by the furnishing of a security lodged with the corresponding Customs Administration, taking into account the time-limit established in the resolution issued by INCOMEX. Such security may be provided by an entity subject to the supervision of the Superintendent of Banks.

In all other respects, securities shall be governed by the provisions of Chapter XXXIII of the Customs Code and supplementary or amending provisions thereto.

The resolution shall be published in accordance with Article 46 of the Administrative Litigation Code, and a copy thereof must immediately be sent to the persons mentioned in the second indent of Article 21 of this Decree.

Article 24. EXCESS AMOUNTS AND REFUNDS. Where the final duties are higher than the provisional duties paid or guaranteed, the amount in excess of the payment or security shall not be charged, and the latter shall be realized. In the contrary case, the difference shall be refunded or a reduced amount of the security shall be collected.

Paragraph 1. Where final duties are not established, the entire amount paid by way of provisional duty shall be refunded or the security returned.

Paragraph 2. The Customs Administration shall refund excess amounts in accordance with the proceedings laid down in the Customs Code for the refund of money to importers or order the release of the security, as the case may be.

Article 25. JOINT HEARINGS OF INTERESTED PARTIES. During the investigation the complainant, importers and exporters of the goods under investigation and in general any persons who have shown that they have a legal interest in the investigation may request the holding of joint hearings of interested parties representing different interests.

Article 26. STATEMENTS OF INTENT. The Trade Practices Committee shall evaluate the cases in which the competent authorities of the country of origin or export offer, through INCOMEX, to eliminate or limit the subsidy or take measures relating to its injurious effects. It shall also evaluate cases in which the producer or exporter undertakes to forego the subsidy in full or in part, to revise its export prices or to cease exports to Colombia, in such a way as to eliminate or reduce the margin of dumping, the amount of the subsidy or the consequent injury.

Offers which do not provide for the placing at the disposal of the authorities of all necessary periodic information required to monitor their implementation shall not be considered.

The Committee shall report to the Ministry of Economic Development on offers received and make a recommendation on them.

Where after receiving statements of intent and before closing the investigation the authorities determine on their own initiative or at the request of the exporter or the foreign authorities that no injury or threat of injury exists, the resolution ending the investigation shall state that the offers accepted previously have lapsed. If a determination of no threat of injury is made due to the acceptance of a statement of intent, the resolution shall indicate that the latter remains binding.

Article 27. CONCLUSION OF INVESTIGATION. After the interested parties in the investigation have been given an opportunity to put forward their arguments and on the basis of the available evidence and reports, INCOMEX shall report the results of the investigation to the Trade Practices Committee. The latter shall form its opinion thereon. Once that opinion has been given, the Ministry of Economic Development shall adopt the appropriate decision by a resolution stating the reasons therefor which shall be published and communicated in the form and to the persons mentioned in Article 21 of this Decree.

The resolution shall state the conditions governing the duration of the duties imposed, where appropriate.

Article 28. FINAL DUTIES. When an anti-dumping or countervailing duty is imposed, it shall be collected in the appropriate amounts, whoever the importer may be, on imports of such product from all sources found to be dumped or subsidized and causing injury or threat of injury to Colombian industry.

Paragraph 1. The Ministry of Economic Development, following the opinion of the Trade Practices Committee, may determine that the anti-dumping or countervailing of duty be less than the margin of dumping or the amount of the subsidy if such lesser amount is adequate to remove injury or threat of injury to the Colombian industry.

Paragraph 2. When the Ministry of Economic Development accepts an offer within the meaning of Article 26 of this Decree, the investigation shall be closed. The Ministry shall issue a resolution ordering that

anti-dumping or countervailing duties should not be collected, or should be collected in an amount less than the identified margin of dumping, or be collected only as from a specified date or up to a specified date. However, the application of any concessions made in the decision taken shall be conditional upon the performance by the parties which made the statements of intent accepted by the Ministry of Economic Development.

In the resolutions concerned, the Ministry of Economic Development shall also stipulate that if the authority, producer or exporter which made the offer fails or refuses to provide periodic information relevant to the fulfilment of such offer, INCOMEX may order the immediate application of provisional measures using the best information available. It shall also order the reopening of the investigation and in that case definitive duties may be levied in accordance with this Decree on goods entered for consumption not more than ninety days before the application of such provisional duties. However, such assessment shall not apply to imports entered before the non-fulfilment of the offer.

Article 29. INJURY CAUSED BY MASSIVE IMPORTS. On the basis of the best information available, definitive countervailing or anti-dumping duties may be assessed and collected on goods entered for consumption ninety days before the date of the resolution ordering payment of provisional duties, in the following cases:

- (a) Where the competent authority finds that injury which is difficult to repair is caused by massive imports of the subsidized product in a relatively short period.

In such cases, countervailing duties may be imposed only in critical circumstances in order to preclude the recurrence of such injury and provided the subsidies were bestowed inconsistently with the provisions of Law 49 of 1981 or of this Decree.

- (b) Where the competent authority determines that with respect to the product under investigation there is a history of dumping which caused injury to the domestic industry or that the importer was or should have been aware that the exporter practised dumping.

In this case, the anti-dumping duties may be levied only in critical circumstances where the following requirements are fulfilled:

- (b1) That massive imports effected in a relatively short period exist.
- (b2) That they are imposed in order to preclude the injury recurring.

Paragraph 1. The Foreign Trade Management Council shall establish the rules which INCOMEX must follow to describe imports as massive within the meaning of this article.

Paragraph 2. When the Ministry of Economic Development orders the imposition of countervailing or anti-dumping duties in accordance with this article, the customs authorities shall collect such duties by means of an additional assessment that shall be notified and executed in accordance with the provisions of the Customs Code and the provisions supplementing and amending the Code.

Article 30. APPLICATION AND VALIDITY OF ANTI-DUMPING AND COUNTERVAILING DUTIES. The application of an anti-dumping duty or a countervailing duty shall not exceed the amount of the subsidy or the margin of dumping found to exist.

An anti-dumping duty or a countervailing duty shall remain in force only as long as, and to the extent necessary to counteract the dumping or subsidization which is causing injury.

No product shall be subject to both anti-dumping and countervailing duties to compensate for the same situation of dumping or subsidization.

The Directorate-General of Customs shall apply the anti-dumping and countervailing duties in accordance with the rules of the Customs Code and relevant provisions for assessment, collection, lodging of security, procedures and other matters relating to tariff charges.

Once anti-dumping and countervailing duties have been established, they shall be collected on the basis of the value of the goods determined in accordance with the rules used for the collection of tariff charges.

Investigations carried out shall not in any case hinder the procedures of customs clearance of the goods concerned.

Until the Trade Practices Committee decides otherwise, INCOMEX shall monitor continuously the behaviour of imports of goods that have been subject to dumping or subsidy investigations.

Article 31. MODIFICATION OF ANTI-DUMPING AND COUNTERVAILING DUTIES. Once the administrative decision establishing anti-dumping or countervailing duties has become enforceable, it may be amended in part or in full, ex officio or at the request of a party; fresh administrative proceedings will be initiated, to which Chapters V and following of this Decree shall apply where relevant.

CHAPTER VI

OTHER PROVISIONS

Article 32. INTERNATIONAL AGREEMENTS. This Decree shall be applied without prejudice to the relevant provisions of the international agreements to which Colombia is a party, in particular the Cartagena Agreement, the Latin American Integration Association (ALADI), and the General Agreements on Tariffs and Trade (GATT).

Subsidies will be considered to be governed by international agreements to which Colombia is a party when such agreements refer specifically to them or when they specifically govern the practices to which Article 6 of this Decree refers. In the absence of such specific reference or regulation, the rules of Chapters III and following of this Decree shall apply to subsidies.

When an investigation must be governed by the rules of the Cartagena Agreement, if INCOMEX finds that an investigation is justified, it shall take a formal decision to that effect and transfer the matter to the Board of the Agreement for matters falling within the latter's competence. If it does not so determine it shall so notify the complainant and give public notice of its decision.

In aspects not governed by this Decree, and for its interpretation where necessary, the authorities shall apply the relevant rules of the above-mentioned international agreements.

Article 33. PROCEDURES AND REQUIREMENTS. INCOMEX shall establish the procedures, forms and other requirements necessary for the implementation of this Decree.

Article 34. ENTRY INTO FORCE. This Decree shall enter into force on the date of its publication and abrogates any provisions that conflict with it, in particular Decree 1500 of 1990.

For publication and implementation

Done at Bogotá, D.E., on 17 October 1990

Minister of Economic Development

Ernesto Samper Pizano

HANDBOOK OF COMPLAINT PROCEDURES

Colombian law, and in particular Decree No. 2444 1990, establishing provisions relating to countervailing and anti-dumping duties, provides industry with an instrument for safe guarding or restoring the conditions of competition for domestic industry when they have been affected by unfair international trade practices such as dumping and subsidies.

The information given in this handbook covers the basic criteria interested parties must apply to evaluate whether or not they meet the necessary requirements for submitting and properly substantiating their requests for an investigation.

If the evidence submitted by the complainant or obtained by INCOMEX, the agency responsible for administering the system of protection against unfair practices, gives reason to presume that specific imports are being dumped or subsidized, INCOMEX will pursue the investigation and will promptly decide on any kind of clarification, further information or consultation.

INCOMEX considers that the particulars furnished are correct and faithfully represent the facts; if that is not the case, their inaccuracy or falseness will be sufficient grounds for rejecting the request without prejudice to whatever penalties may be applicable under the law. The information should be substantiated in the complaint by means of verifiable evidence and analysis.

Definition

An import is considered as being dumped when the export price is less than the market value of the like product when destined for consumption in the country of origin or of export in the ordinary course of trade¹.

An import is considered as having been subsidized when the production, manufacture, transport or export of the imported good or of its raw materials or inputs has received directly or indirectly any bounty, aid, premium or subsidy from the government of the country of origin or of export or from its public or semi-public agencies.

Cases of under-invoicing of imports remain the responsibility of the Director-General of Customs. In the case where the price at which the imported good is first resold to an independent buyer in Colombia is less than the market value as defined in Decree No. 2444 of 1990, INCOMEX will carry out an anti-dumping investigation while the Director-General of Customs carries out an investigation into under-invoicing.

¹The underlined expressions are included in the glossary at the end of this handbook.

Countervailing duties and anti-dumping duties

Dumping and subsidies are not in themselves considered injurious to domestic industry unless they cause or threaten to cause injury to the domestic industry, in which case the imposition of anti-dumping or countervailing duties is justified in order to offset the margin of dumping or the amount of the subsidy.

Determination of dumped imports

In order to determine whether a product has been or is being imported into the Colombian market at a price less than the market value, the export price is compared with the market price in the country of origin or of export.

Failing that, the market value will be obtained from the next most available value: the highest export price for the like product exported from the country of origin or of export to a third country and the constructed price of a like product.

Imports from countries with centrally planned economies are subject to special treatment.

In general, the margin of dumping is established after allowing for adjustments for differences in goods, quantities sold and conditions of sale.

Determination of injury from dumping or subsidies

Injury means material injury to the domestic industry and threat of injury means material retardation of the establishment of an industry or the possibility of a substantial increase in imports, provided the latter are dumped or subsidized.

The determination of the injury caused by an unfair import practice depends on the evidence and the analysis of the effects those imports have on the domestic industry of like products.

The injury may be reflected in prices, market share, decline in sales, profits, or utilization of installed capacity, among other things.

Who may submit a complaint?

Producers, associations and groups of producers, traders and, in general, anyone who shows that he has a legal interest.

In any event, the information provided must be broken down at producer level and refer to the injury or threat of injury caused by dumped or subsidized imports to the domestic industry.

Domestic producers are recommended to register with INCOMEX not only in order to comply with Resolution No. 04 of 1989 of the Foreign Trade

Management Council, but also because keeping the register properly up-to-date helps the efficient implementation of Decree No. 2444.

Requirements for a complaint

Any interested party may submit a request for an investigation concerning imports effected during the previous six months or currently taking place.

The request must be submitted in an original plus three copies using the form supplied by the Colombian Foreign Trade Institute, INCOMEX, in accordance with Article 33 of Decree No. 2444 of 1990.

The form contains information concerning:

I. Identification of the parties involved

- Identification of the complainants and their legal representatives.
- Identification of importers.
- Identification of exporters and/or producers of the product in question in the country of origin or of export and in third countries.
- Identification of buyers in the Colombian market.
- Identification of the imported product and of the like domestic product.

II. Elements for determining the existence of an unfair practice

Dumping:

Information on import prices and market value, as defined in Decree 2444 of 1990, necessary for the determination of the margin of dumping. Attach invoices, quotations, price lists, copies of way-bills and any other evidence that is verifiable by INCOMEX.

Subsidies:

Identification of the subsidy and of the amount received by the producer or exporter getting the subsidy.

Information on legal provisions, agencies involved and requirements for grant of the subsidy.

III. Evidence of injury

- Information concerning the effect on prices.
- Information on the loss of market share on the basis of import trends in absolute and relative terms.
- Information on any deterioration the domestic industry has suffered or will suffer (utilization of installed capacity, sales, employment, retardation in the establishment of an industry in Colombia, among other things).
- Information on financial effects: analysis of solvency, acid test, operating and financial leverage, profitability, cash flow, operating profit and deterioration in the financial situation of new investment projects.
- Information on factors which at the same time are injuring the domestic industry but are not attributable to the unfair import practice, such as imports not dumped or subsidized, changes in domestic and external demand, and productivity of the domestic industry, among other things.

Although the information supplied is presumed to be accurate, it must be verifiable by means of the relevant documents, sources and specification of methods used, as appropriate.

The basic information is supplied by the complainant; however, INCOMEX may on its own initiative request information from the other interested parties (importers, exporters, domestic and foreign producers).

Some documents will be confidential, although their confidentiality may be waived, and in any case a non-confidential summary of the confidential information must be submitted.

The forms will explain the form of presentation of the data in each case (time series, projections and indicators).

Procedures for establishing duties

1. Obtain forms from INCOMEX main office or regional offices.
2. Fill in the form, attaching documentation in support of the facts stated.
3. Submit the petition (original and three copies) to the regional offices or main office (Calle 28, No. 13A-15 Piso 7).
4. If requested, provide whatever clarifications or supplementary information INCOMEX requires; this must be done within a period of two months.

5. If INCOMEX determines, within a period of fifteen days, that the request is complete, it will so inform the complainant in writing. It then has two months to decide whether there are grounds for opening an investigation. During that time the complainant must provide INCOMEX with whatever additional evidence and information it requests and may submit further information he considers relevant.

6. If the complaint gives rise to the opening of an investigation, INCOMEX will issue a resolution to that effect and notify the decision to the parties involved. The investigation will be carried out from that date and may last up to nine months, with a possible extension of a further three months in exceptional cases.

INCOMEX may establish or modify provisional duties at any moment following the opening of the investigation.

7. The investigation will be concluded by a resolution, with or without final duties, specifying the terms and duration of such duties.

Alternatively, the investigation may be concluded by the acceptance of statements of intent by exporters who offer to eliminate or restrict the subsidy, revise export prices or cease subsidized or dumped exports to Colombia.

During the period of the investigation, the complainant, importers and exporters of the product and in general anyone showing a legal interest in the investigation may request the holding of joint hearings of interested parties representing different interests in order to try to reach a mutually agreed settlement.

Glossary

Adjustments for differences: Physical characteristics and technical specifications of the product, terms and conditions of sale, taxes and any other element considered relevant to make them comparable.

Opening of an investigation: Time from which, by an INCOMEX resolution, the investigation process is initiated.

Anti-dumping duty: Duty applied to a dumped import causing or threatening injury to the domestic industry in order to offset the margin of dumping.

Countervailing duty: Duty established to offset a subsidy granted directly or indirectly in the country of origin or of export on a product the import of which causes or threatens material injury to the domestic industry.

Dumping: An import is dumped when its export price is less than the market value of the like product when destined for consumption in the country of origin or of export.

Legal interest: In this case, relationship between the interested party and the injury or the threat of injury resulting from unfair trade practices.

Margin of dumping: Amount by which the export price is less than the market value.

Ordinary course of trade: Transactions between independent parties, i.e. parties that are not associated or have not reached a compensatory arrangement between themselves.

Constructed price: Estimated price obtained by adding up the production costs of the goods in the country of origin, administrative and selling costs and a reasonable amount for profit.

Export price: The price actually paid or payable for the product sold for export to Colombia.

Like product: A product which is identical to or has characteristics resembling those of the product in question, taking account of such elements as its nature, quality, use and function.

Subsidy: Any premium, aid or bounty which the country of origin or of export or its public or semi-public agencies grant on the production, manufacture, transport or export of a product.

Market value: This is the value actually paid or payable for the like product to the product imported in Colombia, sold for consumption in the country of origin or of export in the ordinary course of trade. Where this price is not representative or not reliable the highest export price to third countries or a constructed price.

I. INFORMACION GENERAL

1. Identificación del(los) peticionario(s)

Razón social de la empresa o nombre persona natural

NIT o C.C _____

Dirección _____

Ciudad _____ Depto. _____ Teléfono _____

Fax _____ Télex _____

Accionistas y participación porcentual de los mismos

Nombre	País	%
_____	_____	_____
_____	_____	_____
_____	_____	_____

Objeto social

Actividad económica principal

Industria ___ Comercio ___ Agropecuaria ___ Minería ___ Servicios ___

Representante legal _____

Teléfono _____

Fecha de inicio de las operaciones _____

En caso de que la petición sea presentada por un grupo de empresas, proporcionar la información anterior para cada una.

En caso de tratarse de un gremio, anotar personería jurídica y nombre de los afiliados.

2. Identificación del(los) importador(es) del producto objeto de la petición, discriminando el que presuntamente realiza prácticas desleales de comercio

Razón social de la empresa o nombre persona natural

NIT o C.C _____

Dirección _____

Ciudad _____ Depto. _____ Teléfono _____

Fax _____ Télex _____

Accionistas y participación porcentual de los mismos

Nombre	País	%
_____	_____	_____
_____	_____	_____
_____	_____	_____

Objeto social del importador

Actividad económica principal

Industria ____ Comercio ____ Agropecuaria ____ Minería ____ Servicios ____

Tipo de vínculo comercial con el productor en el país de origen

3. Identificación del(los) exportador(es) en el exterior objeto de la investigación

Razón social _____

País _____

Dirección _____ Teléfono _____

Accionistas y participación porcentual de los mismos

Nombre	País	Z
_____	_____	_____
_____	_____	_____
_____	_____	_____

4. Identificar otros exportadores a Colombia del mismo producto, del mismo país de origen del producto objeto de la petición

Razón social _____

País _____

Dirección _____ Teléfono _____

5. Identificar el(los) productor(es) en caso de que éste(os) sea(n) diferente(s) al exportador

Razón social _____

País _____

Dirección _____ Teléfono _____

Accionistas y participación porcentual de los mismos

Nombre	País	Z
_____	_____	_____
_____	_____	_____
_____	_____	_____

6. Identificar otros productores del mismo país de origen del productor del producto objeto de la petición

Razón social de la empresa

Dirección _____

Ciudad _____ Teléfono _____

7. Identificar los productores en Colombia del producto similar objeto de la petición

Razón social _____

NIT _____

Dirección _____

Ciudad _____ Depto. _____ Teléfono _____

Razón social _____

NIT _____

Dirección _____

Ciudad _____ Depto. _____ Teléfono _____

Razón social _____

NIT _____

Dirección _____

Ciudad _____ Depto. _____ Teléfono _____

En caso de existir más productores, proporcionar la misma información para cada uno de ellos

8. Identificar los principales compradores del producto en Colombia

Razón social _____

NIT _____

Dirección _____

Ciudad _____ Depto. _____ Teléfono _____

Razón social _____

NIT _____

Dirección _____

Ciudad _____ Depto. _____ Teléfono _____

Razón social _____

NIT _____

Dirección _____

Ciudad _____ Depto. _____ Teléfono _____

9. Exponer las razones que conllevan a presumir la práctica desleal

Identificar tipo de práctica, y cualquier otra información de carácter general que pueda ser posteriormente demostrable. Indicar si se está ante un caso de daño efectuado, amenaza de daño o retraso sensible del establecimiento de una producción en Colombia.

10. En el evento de tratarse de un caso de subvención indicar el país y el(los) organismo(s) involucrado(s).

País _____ Organismo _____

II. IDENTIFICACION DEL PRODUCTO

1. Producto importado

1. Posición arancelaria bajo la cual se efectúa la importación

Nombre técnico _____

Nombre comercial, marca y/o modelo y referencia _____

Unidad comercial en que se importa _____

Forma de presentación _____

Materias primas e insumos requeridos en la fabricación _____

Norma técnica (si la hay) _____ Organismo _____

Otras características o especificaciones que se consideren relevantes

Estado: Usado _____ Saldo _____ Segunda _____ Nuevo _____

2. Brindar una breve explicación del uso del producto. En caso de tratarse de un insumo, indicar en qué forma participa en el proceso productivo, el producto final obtenido y sus usos.

3. Indicar volumen de producción nacional en el país de origen y volumen exportado.

Año	Volumen producido	Unidad	Volumen exportado
_____	_____	_____	_____
_____	_____	_____	_____

2. Producto nacional

1. Posición arancelaria _____

Nombre técnico _____

Nombre comercial, marca y/o modelo y referencia _____

Unidad comercial en que se produce _____

Forma de presentación _____

Materias primas e insumos requeridos en la fabricación _____

Norma técnica (si la hay) _____ Organismo _____

Otras características o especificaciones que se consideren relevantes

Estado: Usado _____ Saldo _____ Segunda _____ Nuevo _____

2. Brindar una breve explicación del uso del producto. En caso de tratarse de un insumo, indicar en qué forma participa en el proceso productivo, el producto final obtenido y sus usos.

3. Anotar descripción arancelaria. En caso de que el producto investigado esté ubicado en una posición que contenga otros productos además del investigado, especificar la proporción nacional de éste dentro de dicha posición.

4. Determinar si el producto importado objeto de la petición es similar a otro producto de origen nacional. Entiéndase como similar un producto idéntico, es decir, igual en todos los aspectos al producto de que se trate, o en su defecto, un producto que tenga características que lo asemejen en gran medida a tal producto, tomando en consideración elementos tales como su naturaleza, calidad, uso y función.

5. Enunciar las diferencias entre el producto importado y el producto fabricado en el país, y entre sus procesos productivos.

6. Indicar qué tipo de convenios hay sobre comercio del producto con el país de exportación.

7. Cuando se trate de una gama de productos indicar similaridad en naturaleza, utilización, calidad y función.

III. SUBVENCIONES

La siguiente información sólo deberá diligenciarse en caso de petición de investigación sobre subvenciones.

1. Indicar la base legal, la autoridad a través de la cual se otorgan directa o indirectamente estímulos, incentivos, primas, subvenciones o ayudas de cualquier clase a los productos, productores o exportadores del producto en cuestión.

Fuente:

2. Especificar la forma y canales por medio de los cuales la subvención fue o sería otorgada.

Fuente:

3. Presentar la estimación de la subvención recibida o por recibir por los productores y/o exportadores del producto.

Fuente:

4. Identificar gastos y otros gravámenes en que incurrió el productor y/o exportador para tener derecho a la subvención.

Fuente:

5. Presentar evidencias de que las ventas en el mercado doméstico de la empresa productora o de la empresa exportadora son hechas a un precio que no refleja el costo de producción, y las condiciones a las cuales tales ventas son hechas. Indicar cómo fue calculado el costo de producción discriminando los costos directos e indirectos.

Valor calculado del producto investigado.

	Precio unitario	Cantidad	Costo total
A. Costos directos			
Materiales			
Mano de obra			
Servicios			
Otros gastos de fabricación			
Suma de A			
B. Costos indirectos			
Gastos generales			
Otros costos			
Suma de B			
C. Utilidad			
D. Precio reconstruido			
Suma de A, B y C			

Fuente:

Observaciones:

IV. PRECIOS

Para las preguntas sobre precios indicar valor ex-fábrica, FOB, puerto de embarque y CIF indicando en cada caso los lugares a partir de los cuales han sido calculados.

Los valores deben ser suministrados en la moneda de transacción y en dólares de los EE.UU., anotando en cada caso el tipo de cambio.

1. Determinación del precio de exportación

1. Precio de exportación del producto ex-fábrica, FOB y CIF cotizados por él o los exportadores objeto de la investigación.

Exportador:

Ex-fábrica	FOB	CIF
Precio US:	Precio US:	Precio US:
Lugar:	Lugar:	Lugar:
Moneda de transacción:	Moneda de transacción:	Moneda:
Tipo de cambio:	Tipo de cambio:	Cambio:
Cantidad:	Cantidad:	Cantidad:
Fecha:	Fecha:	Fecha:

Exportador:

Ex-fábrica	FOB	CIF
Precio US:	Precio US:	Precio US:
Lugar:	Lugar:	Lugar:
Moneda de transacción:	Moneda de transacción:	Moneda:
Tipo de cambio:	Tipo de cambio:	Cambio:
Cantidad:	Cantidad:	Cantidad:
Fecha:	Fecha:	Fecha:

Exportador:

Ex-fábrica	FOB	CIF
Precio US:	Precio US:	Precio US:
Lugar:	Lugar:	Lugar:
Moneda de transacción:	Moneda de transacción:	Moneda:
Tipo de cambio:	Tipo de cambio:	Cambio:
Cantidad:	Cantidad:	Cantidad:
Fecha:	Fecha:	Fecha:
Ex-fábrica	FOB	CIF
Precio US:	Precio US:	Precio US:

2. Precio calculado del producto importado partiendo de la base del precio de la primera reventa a un comprador independiente en el mercado colombiano. Tener en cuenta todos los gastos en que se incurra hasta la reventa, incluyendo derechos, impuestos, beneficio, costo de transporte, seguros, mantenimiento, descarga y otros tributos causados para realizar la importación.

Precio estimado de exportación a partir del primer precio de reventa en el mercado colombiano.

Valor 1 reventa	_____
Costos de transporte	_____
Seguros	_____
Mantenimiento	_____
Descarga	_____
Derechos de importación	_____
Gastos generales	_____
Costos administrativos	_____
Beneficios	_____
Comisiones	_____
FOB puerto de embarque	_____
Costos de transporte	_____
Total deducciones	_____

Observaciones:

2. Determinación del valor de mercado

1. Si el producto se exporta del país de origen, o si se exporta de un tercer país pero el producto sólo transita por este país, indicar el precio en el mercado interno del país de origen del producto similar objeto de la petición. Indicar precio ex-fábrica para que los mismos no se vean influidos por el proceso de comercialización.

País de origen:
 Precio moneda país de origen:
 Cambio:
 Precio US:
 Lugar (ex-fábrica):
 Cantidad:
 Fecha:

2. En caso de que se exporte de un país distinto al de origen, indicar el precio en el mercado interno del producto similar del país exportador objeto de la petición. Aportar precios ex-fábrica para que los mismos no se vean influidos por el proceso de comercialización.

País exportador	Precio US	Fecha del precio	Cantidad
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

3. Precio de exportación del producto similar objeto de la investigación a otros países.

País importador	Precio US	Fecha del precio	Cantidad
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

4. Precio calculado de un producto similar en el país de origen. Se tendrán en cuenta los costos de producción, discriminando costos directos e indirectos.

Valor de mercado calculado del producto investigado.

	Precio unitario US	Cantidad	Costo total
A. Costos directos			
Materiales			
Mano de obra			
Servicios			
Otros gastos de fabricación			
Suma de A			
B. Costos indirectos			
Gastos generales			
Otros costos			
Suma de B			
C. Utilidad			
D. Precio reconstruido			
Suma de A, B y C			

Fuente:

Observaciones:

5. En el evento de que la importación sea procedente de países con economía centralmente planificada, el valor de mercado se obtendrá con base en el precio comparable en el curso de operaciones comerciales normales al que se vende realmente un producto similar en un tercer país con economía de mercado, para su consumo interno y de grado de desarrollo similar.

Tercer país _____

Precio US	Fecha del precio	Moneda	Cambio	Cantidad
-----	-----	-----	-----	-----
-----	-----	-----	-----	-----
-----	-----	-----	-----	-----
-----	-----	-----	-----	-----

3. Precios en el mercado colombiano

1. Precio del producto nacional

Indicar el precio del producto similar en el mercado colombiano mensualmente para los últimos dos años y el año en curso, en los siguientes niveles:

Exfábrica	1er. comprador independiente	Consumidor final
-----------	---------------------------------	---------------------

2. Precio del producto importado

Indicar el precio del producto importado en el mercado colombiano durante el período de tiempo que se disponga, en los siguientes niveles:

1er. comprador independiente	Consumidor final
---------------------------------	---------------------

3. Indicar qué tipo de descuentos o política de precios tiene la empresa. Indicar condiciones de empaque y presentación que afecten el precio del producto.

4. Diferencia de precios

1. Indicar si la diferencia de precios entre exportaciones y mercado interno del país objeto de la petición se debe a las características particulares del proceso de comercialización o a otras causas. Indicar cuáles y proporcionar ejemplos de ser posible.

2. Si las diferencias de precios se debieron a una política de subsidios o de dumping, indicar la naturaleza de las mismas y la incidencia sobre el producto final.

3. Precios de exportación ex-fábrica, FOB y CIF cotizados para otros exportadores para el producto similar, del mismo origen.

4. Precios de exportación ex-fábrica, FOB y CIF cotizados por el exportador del producto objeto de la petición a otros países.

IV. DETERMINACION DEL PERJUICIO

1. Información global

1. Identificar el mercado indicando elementos como estacionalidad, delimitación geográfica, orientación y cualquier otra información que permita establecer claramente la porción del mercado hacia el cual se orienta la producción nacional.

2. Indicar si la actividad económica relacionada con el producto suele pasar por crisis coyunturales o estacionalidad. De ser así, indicar la magnitud y la época.

7. Indicar las ventas totales de la industria nacional del producto en cuestión, mensualmente, para los dos últimos años y durante el año en curso.

Producción nacional

Ventas volumen	Unidad	Valor miles
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Fuente:

8. Indicar el nivel de empleo distinguiendo mano de obra directa e indirecta de las empresas productoras del producto en cuestión, mensualmente, para los dos últimos años y para el año en curso.

Producción nacional

Mano de obra directa	Mano de obra indirecta	Total
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Fuente:

9. Indicar el nivel agregado de inventarios de las empresas productoras nacionales del producto en cuestión, mensualmente, para los últimos dos años y el año en curso.

Producción nacional

Volumen	Unidad	Valor miles	ZExportación
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Fuente:

10. Indicar el nivel agregado de utilidades de las empresas nacionales productoras del producto en cuestión, mensualmente, para los últimos dos años y el año en curso. En moneda corriente.

Producción nacional

Utilidades	Unidades	Precio
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Fuente:

2. Información por productor nacional

La información de esta sección deberá ser presentada individualmente por productor nacional representado en esta petición.

Los indicadores de ventas y utilidades serán suministrados en pesos corrientes, indicando las fechas respectivas (la información se solicita mensualmente, para los dos últimos años y el año en curso). Anexar documentación que avale la información. (Balance, Estado de Pérdidas y Ganancias, Flujo de Caja y Facturas.)

1. Identificar el volumen de producción, y la unidad correspondiente, del producto similar objeto de la petición, mensualmente, para los últimos dos años y el año en curso.

Productor afectado

Volumen	Unidad	Valor miles	Exportación
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Fuente:

2. Indicar capacidad instalada del productor del producto en cuestión. En caso de ser un producto que comparte la línea productiva favor indicarlo. Brindar información mensual para los dos últimos años y el año en curso.

Productor afectado

Capacidad instalada	Unidad	Capacidad utilizada
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3. Indicar las ventas del producto en cuestión, según principales compradores, mínimo 70 por ciento del total. Anexar balance y estado de pérdidas y ganancias. (Últimos dos años y año en curso.) Indicar la participación del producto en el análisis de los indicadores económicos.

Productor afectado

Ventas volumen	Unidad	Valor miles
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Anexar listado de las ventas

Fuente:

4. Indicar el nivel de empleo total y en la producción del producto de que se trate. Distinguir mano de obra directa e indirecta, mensualmente, para los últimos dos años y el año en curso.

Productor afectado

Mano de obra directa	Mano de obra indirecta	Total
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Fuente:

5. Indicar el nivel total y por producto de inventarios según metodología contable, mensualmente, para los dos últimos años y el año en curso.

Productor afectado

Inventarios volumen total	Unidad	Valor
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Inventarios producto en cuestión	Unidad	Valor
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Fuente:

6. Indicar nivel de utilidades de la empresa y del producto en cuestión indicando la metodología para el cálculo del costo unitario. Anexar estado de pérdidas y ganancias. (Últimos dos años y año en curso.)

Productor afectado

Utilidades (miles)	Unidades	Precio unitario
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Metodología de costos:

7. Indicar inventarios de las principales materias primas utilizadas en la producción del producto similar en cuestión.

Valor	Volumen	Unidad
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8. Indicar la inversión en activos fijos realizadas en los últimos 24 meses, anotando valor y descripción de los mismos.

Descripción	Valor
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9. Construir costo unitario promedio según para el producto nacional justificando cada rubro del cálculo y la metodología utilizada.

Costo del Producto

Precio de unitario US	Cantidad	Costo total
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- A. Costos directos
- Materiales
 - Mano de obra
 - Servicios
 - Otros gastos de fabricación
 - Suma de A.

- B. Costos indirectos
 - Gastos generales
 - Otros costos
 - Suma de B.
 - C. Utilidad
 - D. Precio reconstruido
 - Suma de A, B, C
-

Fuente

Observaciones:

10. Enunciar las características y nivel tecnológico de la empresa. Señalar su grado de desarrollo tecnológico comparando con el resto de las empresas nacionales y con las empresas líderes en el mercado mundial.

11. En caso de que las importaciones retrasen la ejecución del establecimiento de un proyecto de inversión, describir e indicar la magnitud del proyecto.

12. Anexar los estudios de factibilidad, el cronograma de ejecución del proyecto y el avance del mismo.
