

**GENERAL AGREEMENT  
ON TARIFFS AND TRADE**

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Committee on Anti-Dumping Practices  
Committee on Subsidies and Countervailing Measures

Original: Spanish

**INFORMATION ON IMPLEMENTATION AND  
ADMINISTRATION OF THE AGREEMENT**

**Legislation of Colombia**

**Revision**

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

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In accordance with Article 19.5 of the Subsidies Code, the Government of Colombia notifies the Committee that Decree 150 of 1993, enclosed with this note, amends the legislation on countervailing and anti-dumping duties. We would ask you to circulate it to the Members for the relevant purposes.

DECREE NUMBER 150

(25 January 1993)

"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 189, paragraph 11, of the Political Constitution, in conformity with Law 49 of 1981 and pursuant to Article 10 of Law 7 of 1991,

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 10 of Law 7 of 1991 instructs the National Government to regulate the protection of domestic producers against unfair foreign trade practices and fixes requirements, procedures and factors for determining the imposition of duties as appropriate;
3. That Colombia has acceded to the Agreement on the Implementation of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (GATT);
4. That it is necessary to regulate the implementation of international treaties and bring domestic legislation into line with changes in international trade, in order to avert injury to domestic producers stemming from dumping or from subsidies by imposing anti-dumping or countervailing duties, respectively; and
5. 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.- SCOPE OF APPLICATION. This Decree lays down the rules to be applied to imports of dumped or subsidized products originating in countries not members of the Cartagena Agreement which cause or threaten to cause material injury to a major proportion of domestic industry or material retardation of the establishment of an industry in Colombia. The investigations to which this Decree refers are undertaken by the Colombian Foreign Trade Institute, INCOMEX, in the public interest.

Anti-dumping or countervailing duties are imposed in the public interest, for the purpose of preventing and redressing injury, where an unfair trade practice exists, and are generally applicable to any person importing the goods on which such duties are imposed. The duties may be imposed on a country and, if appropriate, on specific producers or exporters in that country.

Investigations into under-invoicing of imports by the National Customs Directorate may be carried out at the same time as investigations into dumping or subsidies by INCOMEX.

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 National Customs Directorate, without prejudice to the continuation of proceedings with regard to matters within its own competence. The National Customs Directorate shall apply the rules on confidentiality of documents provided for in Article 35 of this Decree.

## CHAPTER II

### DEFINITIONS

Article 2.- For the purposes of this Decree, the following definitions apply:

**ANTI-DUMPING DUTY:** A measure in the form of a customs duty on imports which restores the conditions of competition distorted by dumping, under the procedure set out below.

**COUNTERVAILING DUTY:** A measure in the form of a customs duty on imports which restores the conditions of competition distorted by a subsidy as set out below.

**INJURY:** The generic concept of injury may refer to material injury, threat of material injury or material retardation of the establishment of an industry in Colombia.

**DATE OF SALE:** The date of the document in which the essential conditions of the sale are set down, such as the signature of the contract, purchase order, confirmation of purchase order or invoice.

**ORDINARY COURSE OF TRADE:** Transactions between independent parties, or between associated parties or parties who are bound by a compensatory arrangement, provided that the prices and costs are comparable to those in trade between independent parties.

**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, except in the following cases:

1. When domestic producers are related to the exporters or importers of the allegedly dumped or subsidized products, the term "domestic industry" may be interpreted as referring to the rest of the producers.
2. In exceptional circumstances, for example in the case of regional markets, domestic industry may be divided into two or more separate markets. The producers within each market may be regarded as a separate domestic industry if they sell most 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 the producers of the product in question located elsewhere in the territory.

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 the dumped imports are causing injury to the producers of all or almost all the production within such market.

**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 the characteristics mostly resembling those of the product under consideration.

**EVIDENCE OF INJURY:** Evidence that the dumped or subsidized imports are causing or threatening to cause injury or are materially retarding the establishment of a domestic industry in the importing country. In cases where the country does not have international obligations requiring it to provide evidence of injury, corrective measures may be applied solely on evidence of the existence of the unfair trade practice, for which purpose account shall be taken of whether the exporting country or country of origin would grant the injury test in respect of Colombian exports.

**MARKET VALUE:** The market value to which this Decree refers corresponds to the concept of normal value contained in the Agreement on the Implementation of Article VI of the GATT and generally refers to the price of the product when sold for consumption in the country of origin or export.

### CHAPTER III

#### "DUMPING"

**Article 3.- 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, compared at the same level of trade.

**Article 4.- EXPORT PRICE.** Export price means the price actually paid or payable for the product sold for export to Colombia.

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, or if the products are not resold to an independent buyer, or not resold in the condition as imported, on such reasonable basis as INCOMEX may determine.

In calculating the export price, the necessary adjustments shall be made to allow for all costs incurred prior to sale, such as costs of transport, insurance, warehousing, loading and unloading, import duties and other levies arising subsequent to export from the country of origin; a reasonable margin of general, administrative and selling costs; a reasonable margin of profit and any commission usually paid or agreed.

**Article 5.- MARKET VALUE.** Market value means the amount actually paid or payable for a like product to the product imported, when sold for consumption in the domestic market of the country of origin or of export, in the ordinary course of trade.

When there are no sales of the like product in the ordinary course of trade in the domestic market of the country of origin or exporting country or when, because of the particular market situation, such as price or low volume of domestic sales, such sales do not permit a proper comparison, the market value shall be determined:

1. By considering the highest export price for the like product exported to a third country, provided it is representative or;
2. 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 realised on sales of products of the same category in the domestic market of the country of origin.

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.

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 or, failing that, for export, or on the basis of any other method deemed appropriate by the investigating authority.

Article 6.- 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 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.

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:

1. Differences in the physical characteristics of the products;
2. 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;

3. 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;
4. Differences in respect of tax charges in cases where a product exported to Colombia has been exempt from import duties or indirect taxes to which the like product and the materials of which it is made are subject when the product is produced for consumption in the country of origin or export or in cases where such taxes have been refunded.

#### CHAPTER IV

##### SUBSIDIES

Article 7.- 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, or any form of income or price support when it confers an advantage, may also be considered a subsidy.

Article 8.- 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:

1. Any expenditure that has had to be incurred in order to be entitled to the subsidy or benefit from it;
2. 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 V

##### INJURY, THREAT OF INJURY, MATERIAL RETARDATION OF THE ESTABLISHMENT OF AN INDUSTRY IN COLOMBIA

Article 9.- INJURY INVESTIGATION. A determination of injury shall be based on sufficient evidence and shall involve an objective examination of the following factors:

1. Information on the industry of the product concerned considered as a whole:

- 1.1 volume of dumped or subsidized imports, in particular to determine, inter alia, whether there has been a significant increase in absolute terms or relative to production or consumption in the country;
  - 1.2 effects of imports on actual or potential trends in the industry of the product with respect to factors such as, inter alia, output, utilization of capacity, productivity, inventories, sales, ability to raise capital or investment, employment and wages.
2. Information on the affected domestic producers.  
  
Effects on, inter alia, production, utilization of capacity, productivity, inventories, sales, market share, profits, return on investment, cash flow, capitalization, employment and wages.
  3. Information to determine the causal relationship between the imports and the alleged injury, particularly where purchasers have changed supplier.

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

**Article 10.- EXAMINATION OF THREAT OF INJURY.** Threat of injury shall be determined to exist when it is imminent. For this purpose, where a domestic injury exists, INCOMEX, shall consider inter alia the factors mentioned in the previous article of this Decree:

1. The possibility of a substantial increase in imports, provided the latter are effected at dumped prices or with subsidies inter alia the existence of a contract for supply or the awarding of a tender.
2. Increased or surplus installed or utilized capacity in the exporting country.

**Article 11.- EXAMINATION OF MATERIAL RETARDATION OF THE ESTABLISHMENT OF AN INDUSTRY.** For the purposes of determining material retardation of the establishment of an industry in Colombia, INCOMEX shall examine inter alia, feasibility studies, loans negotiated and contracts for procurement of machinery related to new investment projects or extension of existing schemes.

**Article 12.- CUMULATION OF IMPORTS FOR THE INJURY INVESTIGATION.** 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, when such imports are not subject to temporary or definitive duties.

**Article 13.- MASSIVE IMPORTS.** On the basis of the evaluation of the imports to which Articles 9, 19 and 11 above refer, INCOMEX may determine that such imports are massive if, following the date when the investigation was initiated or when the invitation to hold consultations was made, as appropriate, there has been a substantial increase in a short period of time causing injury to domestic industry which is difficult to repair. In that case the duties to which Article 18 of the Decree refers may be imposed.

## CHAPTER VI

### MEASURES

**Article 14.- 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, at its suggestion or at the initiative of the parties, to eliminate or limit the subsidy, to revise its export prices or to cease exports to Colombia in such a way as to eliminate or reduce the consequent injury.

Offers shall not be considered:

1. Which are submitted prior to the imposition of provisional duties.
2. Which do not include the provision of the information and authorization to carry out investigations which the investigating authority deems necessary to determine that such offers are fulfilled.
3. Which offer quantitative restrictions in cases of dumping investigations.

INCOMEX shall, by a reasoned resolution, publish the terms of the statement of intent in order to give parties interested in the proceedings the opportunity to submit their comments to the investigating authority within a specified time-limit, on the expiry of which the Trade Practices Committee shall be informed.

The Trade Practices Committee shall submit a recommendation in respect of the foregoing to the Minister of Foreign Trade. The Ministry of Foreign Trade shall adopt and publish the decision most appropriate to the interests of the country.

In its resolution accepting the offer, the Ministry may order that anti-dumping or countervailing duties should not be collected, or should be collected in an amount less than the identified margin or dumping or subsidy, or be collected only as from a specified date or up to a specified date. The application of any concessions made in the decision taken shall be conditional upon the fulfilment of the offers by the parties which made the statements of intent accepted by the Ministry of Foreign Trade.

In the resolutions concerned, the Ministry of Foreign Trade 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, without prejudice to a statement of non-fulfilment by a reasoned decision accompanied by a statement of the reasons therefor.

Where after receiving statements of intent and before closing the investigation the authorities determine that no injury or threat of injury exists, the resolution ending the investigation shall state that the offers accepted previously have lapsed. In that case the time-limit for concluding the investigation shall be four months, and only extended in exceptional circumstances.

**Article 15.- ANTI-DUMPING AND COUNTERVAILING DUTIES.** The Ministry of Foreign Trade may determine and order the collection of anti-dumping or countervailing duties on any dumped or subsidized imported product which is proved to be causing or threatening to cause material injury to national industry or materially retarding the establishment of an industry in Colombia.

When no applicable international obligations on the matter exist, anti-dumping or countervailing duties may be determined when the existence of dumping or subsidies has been established, and account shall be taken of whether the injury test would be granted to Colombian exports in the country of export or origin.

Anti-dumping or countervailing duties shall not be imposed in an amount greater than the amount of the subsidy or margin of dumping.

Article 16.- PROVISIONAL DUTIES. INCOMEX may, solely to prevent injury being caused during the period of the investigation, by a reasoned resolution only susceptible to direct revocation, impose provisional duties where, after affording the party being investigated reasonable opportunity to participate in the investigation by replying to the questionnaires issued by INCOMEX for the purpose, it makes a preliminary finding of the existence of dumping or subsidy and of the existence of sufficient proof of consequent injury.

The amount of the provisional anti-dumping or countervailing duties shall be stated in the resolution establishing them and shall be paid by all importers on imports of that product which have been found to have been made at dumping or subsidized prices and to be causing injury to an industry in Colombia.

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. Securities shall be governed by the provisions of the Customs Code.

The Resolution shall be published in the Ministry of Foreign Trade Gazette, Chapter INCOMEX, and a copy thereof must immediately be sent to the persons mentioned in the second indent of Article 29 of this Decree.

Article 17.- FINAL DUTIES. When an anti-dumping or countervailing duty is imposed, it shall be collected in the amounts mentioned in the relevant resolution, whoever the importer may be, on imports of such products found to be dumped or subsidized and causing injury to an industry in Colombia.

The Ministry of Foreign Trade, following the opinion of the Trade Practices Committee, shall adopt a decision most appropriate to the interests of the country and may determine that the anti-dumping or countervailing duty be less than the margin of dumping or the amount of the subsidy if such lesser amount is adequate to remove the injury.

Article 18.- DUTIES ON MASSIVE IMPORTS OR NON-COMPLIANCE. The Ministry of Foreign Trade may order final duties to be imposed as follows:

1. In the case of massive dumped or subsidized imports, as mentioned in Article 13 of this Decree, released for consumption ninety days prior to the date of imposition of the provisional duties but in no case prior to the date of publication of the resolution to initiate an investigation in a dumping case, or prior to the date of the invitation to hold consultations mentioned in Article 28 of this Decree.
2. In the case of non-compliance with the offers in the statement of intent accepted in conformity with Article 14 of this Decree on imports released for consumption during the ninety days prior to the date of establishment of the provisional duties, but in no case prior to such non-compliance.

**Article 19.- ANTI-AVOIDANCE MEASURES.** The scope of a final duty in force on an imported product may extend to parts or components for assembly or finishing in Colombia where it is established that:

1. the product assembled or finished with such parts or components in Colombia is the like product to that subject to final duties;
2. the assembly or finishing in Colombia is carried out by a party who is related to the exporter or producer whose exports are subject to final duties, or who acts on their behalf;
3. the parts or components have been obtained in the country subject to the duty in force, from the exporter or producer to whom the final duty is applied, from suppliers of the exporter or the producer or from a party in the exporting country who acts as supplier on behalf of the exporter or producer;
4. imports of parts or components and assembly or finishing operations have increased subsequent to the initiation of the investigation which gave rise to the imposition of final duties;
5. the total cost of the parts or components is equal to or exceeds 70 per cent of the total cost of the parts or the components used in the assembly or finishing of a like product;
6. in cases of dumping, when there is evidence of the dumping of the product produced with such parts, on the basis of a comparison of the price of the assembled or finished product in Colombia and the market value previously established for a like product when subject to the initial anti-dumping final duty;
7. there is evidence that it is necessary to include such parts within the scope of application of resolutions to impose final duties in order to avoid injury to the domestic industry for a like product to the product subject to final duty.

The authorities may impose provisional duties on parts or components up to the amount of the final duties in force on the finished product when there is sufficient evidence of occurrences under sub-paragraphs 1-6 and final duties when there exists sufficient evidence of occurrences under sub-paragraphs 1-7.

**Article 20.- EXCESS AMOUNTS AND REFUNDS.** There shall be a refund or a reduced amount of the security and shall be collected when:

- the final duties are lower than the provisional duties paid or guaranteed, in an amount equivalent to the difference between them;
- a final duty is established for threat of injury or material retardation in the establishment of an industry in Colombia and the injury has not yet occurred, for the total amount of the duty paid or return of the security;
- where final duties are not established, the entire amount paid by way of provisional duty shall be refunded or the security returned.

The Customs Administration shall refund excess amounts in accordance with the procedures laid down in the Customs Code for the refund of money to importers or order the release of the security.

**Article 21.- APPLICATION AND DURATION OF ANTI-DUMPING AND COUNTERVAILING DUTIES.** An anti-dumping duty or a countervailing duty shall remain in force for a maximum period of five years as long as the causes which give rise to it persist.

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

The National Customs Directorate shall apply the anti-dumping and countervailing duties in accordance with the law and the resolution imposing the duties, as well as the rules for collection, lodging of securities, procedures and other matters relating to tariff charges.

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

**Article 22.- MODIFICATION OF ANTI-DUMPING AND COUNTERVAILING DUTIES.** The administrative decisions establishing final anti-dumping or countervailing duties may be modified provided there are sufficient grounds for so doing.

## CHAPTER VII

### PROCEDURES AND RESPONSIBILITIES

**Article 23.- INITIATION OF PROCEEDINGS.** INCOMEX may initiate the proceedings referred to in this Decree ex officio or at the request of a party.

**Article 24.- EX-OFFICIO INVESTIGATION.** INCOMEX may carry out an investigation at its own initiative when there is adequate evidence to presume the existence of injury caused by dumped or subsidized imports.

**Article 25.- INITIATION OF PROCEEDINGS AT THE REQUEST OF THIRD PARTIES.** INCOMEX may initiate proceedings when requested to do so by domestic producers representing a major proportion of domestic industry who consider themselves injured by imports of like products during the six months prior to the request or currently, at dumping or subsidized prices or by an association of producers which meets the same requirements.

**Article 26.- COMPLAINT REQUIREMENTS.** The request to which the previous Article refers must be submitted in writing, in accordance with the Administrative Litigation Code, and shall also contain at least the following particulars:

1. Identification of the complainant;
2. description of the goods whose import is concerned;
3. countries of origin or of export;
4. name and domicile of the importers and exporters, if known;

5. export prices and market value in the country of origin or export;
6. any encouragement, incentive, premium, subsidy or other help provided to the imported good or its raw materials and inputs in the country of origin or export, authority or agency providing such support, indicating where appropriate the applicable law and, where possible, the value or amount thereof and its impact on the price of the imported product;
7. determination of the injury or threat of injury or of material retardation of an industry in Colombia caused by the dumped or subsidized imports, based on, inter alia, indicators of output, sales, utilization of installed capacity and profit trends;
8. offer to submit the corresponding documents to the authorities for verification of the information supplied;
9. submission of the evidence it is wished to produce;
10. elements to determine the causal relationship between the practice and the injury;
11. identification of the confidential documentation and non-confidential summary or version of that documentation.

**Article 27.- OFFICIAL RECEIPT 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 the previous Article of this Decree have been met, it shall so inform the complainant within fifteen days following the date of official receipt of the complaint.

**Article 28.- EVALUATION OF COMPLAINT.** INCOMEX shall have a period of up to two months from the date of dispatch of the communication mentioned in the preceding Article to evaluate the complaint, and may request and furnish evidence and information at its own initiative or at the request of the party concerned in order to establish that there are grounds for opening an investigation. Such grounds will depend on:

1. Confirmation that the complaint is made on behalf of a major proportion of the domestic industry;
2. adequate evidence of the existence of dumping or subsidies, injury and the causal relationship between these two elements.

As soon as possible after a request for a subsidy investigation is officially 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 or of export.

Such opportunity shall also be afforded throughout the investigation.

**Article 29.- INITIATION OF INVESTIGATION.** If, when evaluating the request, INCOMEX finds grounds for initiating an investigation, it shall adopt a resolution to that effect. A public notice of such resolution accompanied by a statement of reasons therefor shall be published within the time-limit established in the previous article in the Ministry of Foreign Trade Gazette, Chapter INCOMEX.

A copy of the resolution 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.

If INCOMEX does not find grounds for initiating an investigation it shall adopt a resolution to that effect, with a statement of the reasons therefor, within the time-limit established in the previous article.

Article 30. - PRELIMINARY FINDING. Within a maximum period of five months from the date of initiation of the investigation, INCOMEX must, by a resolution accompanied by a statement of reasons therefor, state the preliminary findings of the investigation, and where appropriate it may order the imposition of the provisional duties to which Article 16 of this Decree refers.

Article 31. - JOINT HEARINGS OF INTERESTED PARTIES. Following the preliminary findings the complainant, importers and exporters of the goods under investigation and in general any persons who have shown that they have a legitimate interest in the investigation may request the holding of joint hearings of interested parties representing different interests.

Article 32. - SUBMISSION OF STATEMENTS OF INTENT. When the statements of intent to which Article 14 of this Decree refers are submitted, INCOMEX must, within a time-limit of fifteen days from the date of the resolution notifying such submission, inform the Trade Practices Committee of comments thereon.

Article 33. - 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 Foreign Trade shall take the appropriate decision in a reasoned resolution which shall be published and communicated in the form and to the persons mentioned in Article 29 of this Decree.

Article 34. - TIME-LIMIT FOR THE INVESTIGATION. The authorities have a maximum of nine months to carry out and complete the investigation, running from the date of publication of the resolution 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 at 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 legitimate interest in the investigation.

Article 35. - CONFIDENTIALITY OF DOCUMENTS. When initiating the investigation, INCOMEX shall open a separate file, in which shall be placed the documents which the authorities, the complainant or any of the interested parties with a legitimate interest have specified as being of a confidential nature. Such documents shall be treated as confidential in accordance with the provisions 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 36.- ACCESS TO THE RECORD. Any person may request and obtain access to the non-confidential documents to which this Decree refers; and shall have the right to receive copies as provided for in the Administrative Litigation Code.

Article 37.- PROCEDURES AND REQUIREMENTS. INCOMEX shall establish the procedures, forms and other requirements necessary for the implementation of this Decree.

Article 38.- RESPONSIBILITIES. For the purposes of this Decree, the Ministry of Foreign Trade, the Trade Practices Committee to which Article 31 of Decree 2350 of 1991 refers, and INCOMEX shall have the following functions:

1. Ministry of Foreign Trade: To adopt final decisions and decide on statements of intent submitted;
2. Trade Practices Committee: To submit its opinion to the Ministry of Foreign Trade on statements of intent and results of investigations and authorize extensions of the time-limits for investigation when there are justifiable grounds for so doing;
3. INCOMEX: To carry out the formal evaluation of complaints submitted in accordance with Article 26, to evaluate the merits of initiating an investigation and deciding thereon, to communicate by a reasoned resolution the result of the preliminary evaluation, to impose the provisional duties to which Article 16 refers when appropriate, to communicate by resolutions the terms of statements of intent in accordance with Article 14, and for each case to prepare a study including the results of the investigation without prejudice to its inherent powers as investigating authority.

Article 39.- The Trade Practices Committee to which Article 31 of Decree 2350 of 1991 refers shall hear the opinion of the Superintendent of Trade and Industry or his Deputy before making the recommendation to the Ministry of Foreign Trade to which Articles 14 and 17 refer.

Article 40.- 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 2444 of 1990.

FOR PUBLICATION AND IMPLEMENTATION.

Done at Santafé de Bogotá, on 25 January 1993.

(Signed) CÉSAR GAVIRIA TRUJILLO  
President of the Republic of Colombia

(Signed) JUAN MANUEL SANTOS C.  
Minister of Foreign Trade