

GENERAL AGREEMENT ON TARIFFS AND TRADE

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Special Distribution

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

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INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

Legislation of Spain

The following communication dated 21 May 1982 has been received from the Permanent Mission of Spain.

In accordance with the provisions of Article 16, paragraph 6, of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade (Anti-Dumping Code) and of Article 19, paragraph 5, sub-paragraph (a) of the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade (Code on Subsidies and Countervailing Duties), I am sending you herewith a copy of the Spanish legislation published in the Boletines Oficiales del Estado of 14 and 15 May 1982 which brings that legislation into conformity with the provisions of the two Codes.

Boletín Oficial del Estado No. 115, 14 May 1982

MINISTRY OF THE ECONOMY AND TRADE

11204 Royal Decree 925/1982, of 30 April, laying down rules of procedure for the imposition of anti-dumping and countervailing duties

Boletín Oficial del Estado No. two hundred and seventy-six of the eighteenth of November one thousand nine hundred and eighty-one published the Instrument of Ratification for Spain of the Agreement of the twelfth of April one thousand nine hundred and seventy-nine on Implementation of Article VI of the General Agreement on Tariffs and Trade (Anti-Dumping Code).

The said Agreement provides in its Article 16, paragraph 6, that each government accepting or acceding to the Agreement shall take all necessary steps to ensure the conformity of its laws, regulations and administrative procedures with the provisions of the Agreement.

Furthermore, Article 16, paragraph 5 of the Agreement provides that acceptance of the Agreement shall carry denunciation of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade of the thirtieth of June one thousand nine hundred and sixty-seven.

For the two reasons stated, it is advisable to replace the rules of procedure at present in force, which are laid down in Decree three thousand five hundred and nineteen one thousand nine hundred and seventy, of the twelfth of November, of the Ministry of Trade (Boletín Oficial del Estado of the fourteenth of December one thousand nine hundred and seventy).

In virtue thereof, on the proposal of the Minister of the Economy and Trade, the Interministerial Commission for the Multilateral Trade Negotiations (GATT) having been heard, and by Decision of the Council of Ministers at its meeting of the thirtieth of April one thousand nine hundred and eighty-two,

I HEREBY DECREE AS FOLLOWS:

Article 1. The imposition of an anti-dumping duty is a measure to be taken only under the conditions provided for in Article VI of the GATT and in the Agreement on Implementation thereof (Anti-Dumping Code).

The imposition of a countervailing duty, understood in this Royal Decree in the sense established in Article VI of the GATT, is a measure to be taken only under the conditions provided for in the said Article VI.

Article 2. Proceedings shall generally be initiated at the petition of an interested party. To that end, any entity representative of the branch of domestic industry affected or natural or legal person, on behalf of the said industry, or of a domestic producer or domestic producers affected, may file with the Ministry of the Economy and Trade (Directorate-General of Tariff Policy and Importation) a petition requesting the imposition of anti-dumping or countervailing duties.

Petitioners shall furnish information proving:

First. The existence of dumping, a bounty or a subsidy.

Second. The existence of injury. The term "injury" shall be taken to mean injury which is sustained or might be sustained by domestic industry in the event that anti-dumping or countervailing measures are not taken, or material retardation of the establishment of such industry.

Third. A causal link between the imports which are the subject of dumping, a bounty or a subsidy and the injury to domestic industry.

The Directorate-General of Tariff Policy and Importation may initiate proceedings ex officio either motu proprio or on the proposal of any organ of the Administration. For this purpose it must be in possession of evidence relating both to the dumping, bounty or subsidy and to the injury resulting therefrom: evidence to which the Directorate General has itself had access or which has been supplied to it by any agency of the Administration.

Article 3. Once proceedings have been initiated in accordance with the provisions of Article 2, the Directorate-General of Tariff Policy and Importation shall, if it considers that the initial evidence relating both to the dumping, bounty or subsidy and to the injury is sufficient therefor, open an investigation for due clarification of the facts, first requesting a report from the competent ministerial departments and in any case from the Directorate-General of Customs and Special Taxes.

The opening of the said investigation shall be brought to the notice of the representatives of the exporting country or countries affected, to that of the exporters and importers known to have an interest, and to that of the complainants. It shall in any case be published in the Boletín Oficial del Estado.

During the investigation all parties shall have the opportunity to present in writing or orally their cases and information of any kind which they consider relevant. Similarly the Directorate-General of Tariff Policy and Importation shall furnish such information in its possession as they may need for the presentation of their cases, provided that it is not of a confidential nature and has not been requested on a confidential basis.

Article 4. If as a result of the investigation the Directorate-General of Tariff Policy and Importation finds that the conditions required in Article 2 are met, it shall transmit the file to the Interministerial Commission on Anti-Dumping and Countervailing Measures as advisory body to the Minister of the Economy and Trade.

Article 5. On receiving the file, the Interministerial Commission on Anti-Dumping and Countervailing Measures shall proceed to study it, calling for such information and advice as it sees fit in order to extend, if necessary, the investigation carried out by the Directorate-General of Tariff Policy and Importation.

After making this study, the Interministerial Commission on Anti-Dumping and Countervailing Measures shall report to the Minister of the Economy and Trade on the desirability of imposing or not imposing an anti-dumping or countervailing duty; the Minister shall, if he sees fit, order the preparation of the appropriate draft Royal Decree imposing the duty in question.

Article 6. Where the Interministerial Commission on Anti-Dumping and Countervailing Measures considers, in the light of the facts, that sufficient legal grounds may exist for a presumption of fiscal fraud or a monetary offence, it shall so notify the Ministry of Finance through its Chairman in order that the Ministry may, through the competent agencies, take the appropriate measures of investigation in accordance with the rules in force.

Article 7. Without prejudice to such final measures as may result from the proceedings governed by this Royal Decree, the Directorate-General of Tariff Policy and Importation may, where a preliminary examination reveals the existence of dumping, a bounty or a subsidy, there is sufficient evidence of injury to domestic industry and immediate action is needed, adopt provisional measures directly by means of an appropriate resolution, transmitting the file to the Interministerial Commission on Anti-Dumping and Countervailing Measures as quickly as possible for information and processing.

Article 8. Provisional measures shall in principle be imposed for a period not exceeding four months and shall be followed by a final decision. Nevertheless, if exporters representing a significant proportion of the trade concerned so request, the Interministerial Commission on Anti-Dumping and Countervailing Measures shall, in the case of anti-dumping duties, propose to the Minister of the Economy and Trade that the provisional measures should be imposed for a maximum of six months.

Article 9. Proceedings initiated as provided in Article 3 shall be suspended or terminated without the adoption of provisional measures or the application of anti-dumping or countervailing duties where there is insufficient evidence of dumping, a bounty or a subsidy and of injury caused thereby, or where the margin of dumping, the bounty or the subsidy and the volume of actual and potential imports which are the subject of the dumping, bounty or subsidy are insignificant. Similarly the proceedings may be suspended or terminated if the exporter gives satisfactory voluntary undertakings to revise its prices or to cease its exports so that the injurious effect of the dumping, bounty or subsidy is eliminated.

Article 10. Any finding, preliminary or final whether affirmative or negative, or the revocation of a finding shall be published in the Boletín Oficial del Estado and the representatives of the exporting country or countries affected and the known interested parties shall be notified.

Article 11. In accordance with the provisions of Article 6 of the Tariffs Act of the first of May one thousand nine hundred and sixty, anti-dumping and countervailing duties shall be regarded as supplementary tariff duties or surcharges upon those of the Customs Tariff scale.

Article 12. The Ministry of Finance and the Ministry of the Economy and Trade are hereby authorized, within their respective spheres of competence, to issue such additional provisions as they may deem necessary for the application of this Royal Decree.

Article 13. Decree three thousand five hundred and nineteen/one thousand nine hundred and seventy, of the twelfth of November, and any provision of equal or lower standing which conflicts with this Royal Decree are hereby repealed.

Article 14. This Royal Decree shall enter into force on the day following its publication in the Boletín Oficial del Estado.

Done at Madrid this thirtieth day of April one thousand nine hundred and eighty-two.

JUAN CARLOS R.

JUAN ANTONIO GARCÍA DIEZ
Minister of the Economy and Trade

Boletín Oficial del Estado No. 116 15 May 1982

MINISTRY OF THE ECONOMY AND TRADE

11283 Royal Decree 929/1982, of 30 April, establishing the Interministerial Commission on Anti-Dumping and Countervailing Measures

Decree three thousand five hundred and twenty-nine/one thousand nine hundred and seventy, of the twelfth of November, established the Interministerial Commission on Valuation as an advisory body under the authority of the Minister of Trade.

Prominent among its functions are those entrusted to it by Decree three thousand five hundred and nineteen/one thousand nine hundred and seventy, which laid down rules of procedure for the imposition of anti-dumping and countervailing duties.

The signature by Spain of the Agreement of the twelfth of April one thousand nine hundred and seventy-nine on Implementation of Article VI of the General Agreement on Tariffs and Trade entails denunciation of the Agreement of one thousand nine hundred and sixty-seven of the same name.

It is consequently necessary to amend the aforementioned Decree three thousand five hundred and twenty-nine/one thousand nine hundred and seventy in order that it may perform the new functions entrusted to it by Royal Decree nine hundred and twenty-five/one thousand nine hundred and eighty-two, of the thirtieth of April, laying down rules of procedure for the imposition of anti-dumping and countervailing duties.

In virtue thereof, on the proposal of the Minister of the Economy and Trade, the Interministerial Commission for the Multilateral Trade Negotiations (GATT) having been heard, and by decision of the Council of Ministers at its meeting of the thirtieth day of April one thousand nine hundred and eighty-two,

I HEREBY DECREE AS FOLLOWS:

Article 1. The Interministerial Commission on Anti-Dumping and Countervailing Measures is hereby established as an advisory body to the Minister of the Economy and Trade. The exercise of its competence shall be understood to be without prejudice to the functions assigned to the Ministry of Finance in the matter of Customs value.

Article 2. The Commission shall be composed as follows:

Chairman: The Secretary of State for Trade.

Vice-Chairman: The Director-General of Tariff Policy and Importation.

Members:

- The Director-General of Customs and Special Taxes.
- The Technical Secretary-General of the Ministry of Industry and Energy.
- A representative, of the rank of Director-General, from each of the following Ministries: Finance; Agriculture, Fisheries and Food; Industry and Energy; Labour and Social Security; Health and Consumer Affairs; Foreign Affairs; and Economy and Trade.

Secretary: The Head of the Customs Tariff and Valuation Service of the Directorate-General of Tariff Policy and Importation.

The Vice-Chairman shall replace the Chairman in case of absence of the latter or when delegated to do so. Similarly, members of the Commission may delegate technical civil servants of their Department as substitutes.

For purposes of the provisions of Articles 5 and 7 of Royal Decree nine hundred and twenty-five/one thousand nine hundred and eighty-two, of the thirtieth of April, laying down rules of procedure for the imposition of anti-dumping and countervailing duties, and with a view to speeding up the procedure as much as possible, the Commission may appoint panels composed of representatives of the Ministry of Finance, the Ministry of the Economy and Trade and the Ministerial Department competent for the sector concerned.

Article 3. The functions of the Commission shall be as follows:

- (a) those assigned to it by Royal Decree nine hundred and twenty-five/one thousand nine hundred and eighty-two, of thirtieth April, laying down rules of procedure for the imposition of anti-dumping and countervailing duties;
- (b) to make studies on possible imports at dumping prices, favoured by a bounty or subsidy, and to obtain, summarize and classify all kinds of data and information concerning domestic and foreign prices relating to such imports;
- (c) to carry out whatever other work it deems appropriate for the better performance of its functions.

Article 4. The Commission shall act in conformity with the rules for Collegiate Organs contained in the legal provisions in force and specifically in those of the existing Administrative Procedure Law applicable to it.

Article 5. The Ministry of Finance and the Ministry of the Economy and Trade are hereby authorized, within their respective spheres of competence, to issue such additional regulations as they may deem necessary for the application of this Royal Decree.

Article 6. Decree three thousand five hundred and twenty-nine/one thousand nine hundred and seventy, of the twelfth of November, and whatever regulations may have been issued in application thereof and, in general, any provisions which conflict with those of this Royal Decree are hereby revoked.

Article 7. This Royal Decree shall enter into force on the day following its publication in the Boletín Oficial del Estado.

Done at Madrid this thirtieth day of April, one thousand nine hundred and eighty-two.

JUAN CARLOS R.

JUAN ANTONIO GARCÍA DIEZ
Minister of the Economy and Trade