

WORLD TRADE

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31 July 1996

ORGANIZATION

(96-3055)

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

Original: French

NOTIFICATION OF LAWS AND REGULATIONS UNDER  
ARTICLES 18.5 AND 32.6 OF THE AGREEMENTS

SENEGAL

The following communication, dated 15 July 1996, has been received from the Permanent Mission of Senegal.

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Pursuant to Article 18.5 of the Agreement on the Implementation of Article VI and Article 32.6 of the Agreement on Subsidies and Countervailing Measures, the Government of Senegal communicates below the full text of its national regulations on unlawful trade practices.

Law No. 94-68 of 28 August 1984 on Measures to Safeguard  
Domestic Industry Against Unlawful Trade Practices

STATEMENT OF REASONS

The reforms initiated under the structural adjustment have led in foreign trade to liberalization of our trade arrangements.

However, in order to guarantee fair competition on the domestic market, this law seeks to introduce, pursuant to Article VI of the General Agreement on Tariffs and Trade, tools whereby safeguard measures can be taken in the event of dumping or subsidies, as in the case of the machinery used in this regard by most Members of GATT.

Such is the purpose of this bill submitted for your approval.

The National Assembly deliberated and adopted at its meeting on Wednesday, 3 August 1994,

The President of the Republic enacts the following law:

Article 1. Where imports cause or threaten serious prejudice to an established domestic industry or material retardation of the establishment of such an industry, they may be subject to:

- (1) A countervailing duty if it is found that the imported product directly or indirectly benefits from a bonus or subsidy on manufacture, production or export in the country of origin or consignment;
- (2) an anti-dumping duty if it is found that the import price is less than the normal value.

These duties shall be collected in the same way as customs duties.

Article 2. The following is deemed to be less than the normal value:

- (1) A price less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country; or
- (2) in the absence of such domestic price, is less than either:
  - The highest comparable price for the like product for export to a third country in the ordinary course of trade; or
  - the cost of production of the product in the country of origin plus a reasonable amount for selling cost and profit.

Article 3. The amount of the countervailing duties or anti-dumping duties shall be calculated so as to halt the injury. It may in no case exceed the amount of the subsidy or the difference between the import price and the normal price as defined in Article 2. The amount of the countervailing duties or anti-dumping duties shall be incorporated in the customs value.

Article 4. The duties referred to in Article 1 shall be determined by decree on a joint report by the Minister of Trade, Minister of the Economy and Finance and the Minister of Industry.

Article 5. The procedure for assessment of the duties provided for in Article 2 shall normally be initiated on a complaint submitted by producers, importers or producers' associations acting on behalf of a domestic industry and addressed to the Minister of Trade.

However, if the latter has sufficient evidence of the existence of unlawful trade practices, he may initiate the procedure directly.

A complaint, as referred to in the paragraph above, shall include evidence of the existence of dumping, a subsidy or bonus, the injury sustained by the domestic industry and the causal relationship between the unlawful trade practice and the injury.

A decree shall specify the information to be provided by complainants.

Article 6. When the Minister of Trade considers that the complaint is based on reliable evidence and that the majority of the domestic industry in question shares the complainants' allegations, he shall decide to initiate an investigation intended for all the parties concerned, in other words, national producers, importers and exporters and foreign producers.

The investigation, the stages of which shall be specified by decree, is adversarial in nature, subject to the protection of confidential information.

The Minister of Trade may not take a final decision until the investigation is completed.

Article 7. However, the Minister of Trade and the Minister of the Economy and Finance may impose provisional duties before the investigation is completed.

This measure may be taken only 60 days after the investigation is initiated.

Where the final finding of the investigation proves negative, the duties are refunded.

Where the final finding proves affirmative and the definitive duty is higher than the provisional duty, the difference on goods imported during the period of application of provisional measures is not payable.

Where the final duties prove to be less than the provisional duties, the difference is refunded.

Article 8. If, before expiry of the period of 60 days referred to in the previous Article, imports of the goods concerned increase excessively and constitute a serious threat to domestic industry, safeguard measures in the form of bonds, quantitative restrictions or quotas may be adopted by the Minister of Trade, pursuant to Article XIX of the General Agreement on Tariffs and Trade.

Article 9. The terms and conditions of application of this law shall be determined by decree.

This law shall be enforced as a law of the State.

Done at Dakar, on 22 August 1994.

Abdou DIOUF

By the President of the Republic:

*The Prime Minister,*  
Habib THIAM

MINISTRY OF TRADE AND  
THE CRAFT INDUSTRIES

No. 95-76

Department of Foreign Trade

Decree Implementing Law No. 94-68 of 22 August 1994 on Measures  
to Safeguard Domestic Industry Against Unlawful  
Trade Practices

The President of the Republic,

Having regard to the Constitution, more particularly Articles 37 and 65;

Having regard to Law No. 87-47 of 28 December 1987 containing the Customs Code;

Having regard to Law No. 94-63 of 22 August 1994 on prices, competition and economic legal affairs;

Having regard to Law No. 94-68 of 22 August 1994 on measures to safeguard domestic industry against unlawful trade practices;

Having regard to Law No. 94-83 authorizing the President of the Republic to ratify the Agreement Establishing the World Trade Organization, signed at Marrakesh on 15 August 1994;

Having regard to Decree No. 93-717 of 1 June 1993 appointing the Prime Minister;

Having regard to Decree No. 93-723 of 7 June 1993 allocating State services and control of public establishments, national companies and joint public/private companies as between the Office of President of the Republic and the Ministries;

Having regard to Decree No. 93-740 of 7 June 1993 on the powers of the Ministry of Trade and the Craft Industries;

On the report of the Minister of Trade and the Craft Industries,

Decrees

Article 1. For the purposes of the implementation of above-mentioned Law No. 94-68 of 22 August 1994, the stipulations of the Agreement on the Implementation of Article VI of GATT 1994 and the Agreement on Subsidies and Countervailing Measures 1994 shall be observed.

Article 2. For the purposes of the implementation of these provisions, the authority for registering complaints and conducting the investigation shall be the Minister of Trade; decisions on the assessment of anti-dumping duties and countervailing duties shall be taken by decree, on a joint report by the Minister of Trade, the Minister of the Economy, Finance and the Plan and the Minister of Industry, further to an opinion issued by the Committee on Unlawful Trade Practices, the membership of which is established in Article 3 of this decree.

Article 3. The Committee on Unlawful Trade Practices is hereby established under the Minister of Trade. It shall be headed by the Director of Foreign Trade and shall comprise:

- The Director-General Customs or his representative;
- the Director of Internal Trade or his representative;
- the Director of Industry or his representative;
- the representative of the Minister of Agriculture;
- two representatives of consumers appointed by the most representative associations;
- two representatives of importers appointed by the most representative professional organizations;
- two representatives of national producers appointed by the most representative professional organizations.

The Department of Foreign Trade shall provide Committee with secretariat facilities.

The Chairman of the Committee may call on anyone whose opinion, in view of his competence, may prove useful.

The members of the Committee are subject to the obligation to observe professional secrecy and respect the confidentiality of information brought to their attention at the time of examination of the files. The representatives of economic operators may be challenged by a complainant or defendant when it appears that they have an interest in the case in question. The Chairman shall then require the professional organization concerned to appoint another representative.

Article 4. The Minister of State, the Minister of Agriculture, the Minister of the Economy, Finance and the Plan, the Minister of Energy, Mines and Industry and the Minister of Trade and the Crafts Industries shall, as far as each is concerned, implement this degree, which shall be published in the Official Journal.

Dakar, 20 January 1995

Abdou DIOUF

By the President of the Republic:

*The Prime Minister*

Habib THIAM