

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

VENEZUELA

Supplement

The following communication, dated 28 May 1996, has been received from the Permanent Mission of Venezuela.

The Permanent Mission of Venezuela to the United Nations Office and the other International Organizations with headquarters at Geneva presents its compliments to the Secretariat of the World Trade Organization (WTO), and herewith provides notification - in accordance with the provisions of Article 16.5 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 and Article 25.12 of the Agreement on Subsidies and Countervailing Measures - of the authority competent to initiate and conduct investigations referred to in Articles 5 and 11 respectively of the said Agreements; at the same time, information is provided on the domestic procedures governing the initiation and conduct of the investigations.

1. Competent authority

The authority competent to conduct investigations in respect of dumping or subsidization and injury to the domestic industry producing like goods in Venezuela is the Anti-Dumping and Subsidies Commission (CASS), a decentralized body under the Ministry of Development (shortly to be attached to the Ministry of Industry and Trade), which is empowered to adopt all decisions regarding the initiation, suspension or conclusion of dumping or subsidy investigations; to decide on the existence or non-existence of dumping or subsidization and injury to the domestic industry; to accept undertakings, etc. (Articles 27 and 33 of the Law on Unfair Foreign Trade Practices - LSPDCI).

The CASS is composed of a Chairman and four members with their respective alternates. All decisions of the Commission are taken by an absolute majority of its voting members (Articles 28 and 32, LSPDCI). The Commission also has a Technical Secretariat which is the body responsible for verifying and implementing the Commission's decisions. The Technical Secretariat of the CASS is empowered to receive applications for investigation, to carry out the procedure concerning dumping or subsidies and injury to the domestic industry, to coordinate the investigations, to elaborate and present to the CASS the relevant technical studies, etc. The Technical Secretariat is administered by the Chairman of the Commission.

2. Procedure

The procedure for determining the existence of dumping or subsidization and injury to the domestic industry producing like goods may be initiated at the request of an interested party (Article 37, LSPDCI) or *ex officio* (Article 38, LSPDCI). Where an investigation is initiated at the request of an interested party, the applicant must fulfil a set of requirements relating to the identification of the parties, the description of the goods, the presentation of evidence concerning the existence of dumping or subsidies and injury, etc. (Article 39 of the LSPDCI and Articles 61-66 of the Regulations under the LSPDCI). Where an investigation is initiated *ex officio*, the CASS must have sufficient evidence of the existence of dumping or subsidization and injury to the domestic industry (Article 38 of the LSPDCI, Article 5.6 of the Anti-Dumping Agreement and Article 11.6 of the Agreement on Subsidies and Countervailing Measures).

Once the application for investigation has been received, the Technical Secretariat of the CASS has five working days in which to decide whether it meets the requirements laid down by the Law, the Regulations and the Anti-Dumping and Subsidies Agreements (Article 40, LSPDCI). If the application does not meet the requirements for opening the investigation, it will be returned to the applicant for the latter to make good - within 15 working days - the omissions or shortcomings found in the application (Article 40, LSPDCI). If the application meets the requirements for the opening of the investigation, it will be transmitted to the CASS for the latter to decide whether to initiate the investigation; otherwise, the application will not be allowed (Articles 40 and 41, LSPDCI). The CASS has 10 working days to decide whether to initiate the investigation (Article 41, LSPDCI). Once the investigation has been initiated, the decision of the CASS must be notified to all the parties concerned and published in the Official Gazette of the Republic of Venezuela (Articles 27 and 42, LSPDCI). Moreover, an announcement containing an extract from the decision to initiate the investigation must be published in two newspapers at the expense of the applicant (Article 42, LSPDCI, single paragraph). When these formalities have been fulfilled, the process of investigation and verification will be initiated (Article 42, LSPDCI, single paragraph, and Article 42, LSPDCI Regulations).

2.2 Verification phase

The verification phase begins when all the parties concerned by the investigation have been notified, the announcement containing an extract from the decision to open the investigation has been published in the national press, and copies of the announcement have been provided to the Technical Secretariat (Article 69, LSPDCI Regulations). Evidence and arguments are to be presented by the interested parties within a period of 60 working days from the date of completion of these formalities (Article 45, LSPDCI). Questionnaires are also sent to the interested parties, requiring a response within 30 working days, with a possibility of extension (Article 43, LSPDCI and Article 70, LSPDCI Regulations). Moreover, the Technical Secretariat carries out all the investigations required to determine the existence of dumping or subsidies and injury to the domestic industry, and visits the headquarters of the firms involved in the investigation in order to check the information supplied and carry out on-the-spot investigations. The time-limit for conclusion of the investigation into unfair practices and injury is one year from the date of its initiation, unless exceptional circumstances require otherwise (Article 51, LSPDCI and Article 73, LSPDCI Regulations).

2.3 Termination phase

When the Technical Secretariat has concluded the investigation, it is required to transmit to the CASS a final technical report so that the latter may decide whether to impose definitive anti-dumping or countervailing duties. Upon receipt of the final report, the CASS has 30 working days in which to adopt its final decision (Article 51, LSPDCI). Should the CASS decide to impose definitive duties,

it must transmit that decision to the customs authority for the latter to begin collecting the duties. It will also arrange for the execution of securities or the definitive levying of any provisional duties imposed (Article 51, LSPDCI and Articles 75 and 76, LSPDCI Regulations). In the event that the CASS decides not to impose definitive duties, the relevant decision must be transmitted to the customs authority with an order to release any securities deposited or refund any provisional duties imposed (Articles 51 and 52, LSPDCI).

2.4 Other procedural aspects

Notification. All decisions by the CASS must be notified to the interested parties in person, including the domestic producer or producers, importers, exporters and countries under investigation. Such decisions must also be published in the Official Gazette of the Republic of Venezuela (Article 27, LSPDCI).

Provisional duties. The CASS may impose provisional anti-dumping or countervailing duties, provided always that at least 60 working days have elapsed since the initiation of the investigation, that a preliminary affirmative determination has been made of dumping or subsidies and injury to the domestic industry, and that the CASS considers such measures to be necessary to prevent injury to the domestic industry during the investigation (Article 19 of the LSPDCI, Article 53 of the LSPDCI Regulations, Article 7.1 of the Anti-Dumping Agreement and Article 17.1 of the Agreement on Subsidies and Countervailing Measures). Provisional measures may remain in force for no more than four months.

Judicial review. All decisions of the CASS are subject to appeal in the First Administrative Court.

Confidentiality. The Technical Secretariat may apply confidential treatment to the information supplied by the interested parties (Article 48, of the LSPDCI).

Undertakings. The CASS may conclude or suspend an anti-dumping or subsidy investigation before taking a final decision, when undertakings are given with regard to prices or the total elimination of exports (Article 23, LSPDCI).

The Permanent Mission of Venezuela avails itself of the opportunity to renew to the Secretariat of the World Trade Organization (WTO) the assurances of its highest consideration.