

WORLD TRADE ORGANIZATION

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

Original: Spanish

NOTIFICATION OF LAWS AND REGULATIONS UNDER ARTICLES 18.5, 32.6 AND 12.6 OF THE RELEVANT AGREEMENTS

MEXICO

Supplement

The following communication, dated 26 January 2007, has been received from the Permanent Mission of Mexico.

Pursuant to Article 18.5 of the Anti-Dumping Agreement, Article 32.6 of the Agreement on Subsidies and Countervailing Measures, and Article 12.6 of the Agreement on Safeguards, I hereby notify the Committee on Anti-Dumping Practices, the Committee on Subsidies and Countervailing Measures, and the Committee on Safeguards of the following amendments to our legislation in those areas.

I accordingly submit a copy of the Decree amending and supplementing various provisions of the Foreign Trade Act, published in the *Diario Oficial de la Federación* (Official Journal) of 21 December 2006.

MINISTRY OF THE ECONOMY

Decree amending, supplementing and repealing various provisions of the Foreign Trade Act.

In the margin, a stamp with the national emblem and the words United Mexican States – Office of the President of the Republic.

I, **Felipe De Jesús Calderón Hinojosa**, President of the United Mexican States, hereby inform Mexican citizens:

That the Honourable Congress of the Union has notified me of the following:

DECREE

"The General Congress of the United Mexican States decrees: **that various provisions of the Foreign Trade Act are amended, supplemented and repealed.**

Single Article.- The following are amended: Articles 53, final paragraph; 64, second paragraph; 68, first paragraph; 89 D, subparagraph I; 93, penultimate paragraph; and 97, subparagraphs II and III; the following are supplemented: Article 65 by Article 65 A; and the following are repealed: Articles 68, final paragraph, and 93, subparagraph V; all of the foregoing being part of the Foreign Trade Act, which now reads as follows:

Article 53.-...

...

The interested parties to which the questionnaires used in an investigation are sent shall be given a period of 23 days to submit their arguments, information and evidence in conformity with the applicable legislation. The time-limit given to the interested parties shall be counted from the date of receipt of the questionnaire, which for this purpose shall be deemed to have been received five days from the date on which it was sent to the respondent or transmitted to the appropriate diplomatic representative of the Government of the exporting country or, in the case of a separate customs territory, an official representative of the exporting territory.

Article 64.-...

...

The Ministry shall determine a countervailing duty on the basis of the margin of price discrimination or subsidization obtained, on the basis of the best information available, from the facts available, in the following cases:

...

Article 65 A.- In the case of price discrimination which causes injury to the domestic industry, the Ministry is responsible for determining the application of a final countervailing duty to the goods under investigation imported in the three months prior to the date of application of the provisional measures, where the authorities determine for the investigated product subject to price discrimination that:

- (a) There is a history of price discrimination which caused injury or that the importer was, or should have been, aware that the exporter was engaged in price discrimination and that such discrimination would cause injury; and
- (b) the injury is caused by massive imports in a relatively short period of a product subject to price discrimination, and the Ministry considers that in light of the timing and the volume of these imports and other circumstances (such as a rapid build-up of inventories of the imported product) they are likely to seriously undermine the remedial effect of the final countervailing duty to be applied, provided that the importers concerned have been given an opportunity to comment.

In the case of subsidies which cause injury to the domestic industry, where, for the subsidized product in question, the investigating authority finds that injury which is difficult to repair, that is to say, when critical circumstances exist, is caused by massive imports in a relatively short period of a product benefiting from subsidies paid or bestowed inconsistently with the applicable provisions, and where it is deemed necessary, in order to preclude the recurrence of such injury, to assess countervailing duties retroactively on these imports, it is the responsibility of the Ministry to determine the application of the final countervailing duty to goods imported not more than three months prior to the date of application of the provisional measures.

Article 68.- Final countervailing duties may be reviewed annually at the request of a party, or ex officio by the Ministry at any time, irrespective of whether the duties are subject to an alternative dispute settlement mechanism or administrative or judicial proceedings.

...

...

Final paragraph repealed.

Article 89 D.-...

I. Their exports to the national territory of the goods subject to countervailing duties were subsequent to the period under investigation in the proceedings that gave rise to the countervailing duty, and

II. ...

Article 93.-...

...

V. ... Repealed;

...

In applying the fines referred to in subparagraph VI of this Article, the Ministry shall take account of the seriousness of the infringement, the injury and losses caused, the previous record and the personal and economic situation of the offender.

...

Article 97.-...

I. ...

II. The only resolution considered final shall be the Ministry's resolution issued as a result of the decision emanating from the alternative mechanisms. Interested parties resorting to an alternative dispute settlement mechanism or interested parties subject to the payment of countervailing duties which may be modified by virtue of such a mechanism, may guarantee the final countervailing duties in the terms of subparagraph III of Article 98 of this Act. Likewise, in the event that the countervailing duty determined by administrative review is lower than the one in effect at the time when the alternative dispute settlement mechanism is initiated, they shall provide a guarantee or pay the difference between the said duties until the issue addressed under the mechanism has been definitively resolved, and

III. The provisions of Article 51 of the Federal Law on Administrative Dispute Procedure shall be observed.

TRANSITIONAL PROVISIONS

First – This Decree shall enter into force on the day following its publication and shall apply to the totality of imports, regardless of their origin and provenance, including imports from the United States of America and Canada.

Second – The Regulations of the Foreign Trade Act, as published in the *Diario Oficial de la Federación* of 30 December 1993, shall continue to apply insofar as they are not inconsistent with this Decree, until such time as the corresponding reforms are issued.

Third – Administrative proceedings under way at the time of entry into force of this Decree shall be resolved under the Foreign Trade Act, as published in the *Diario Oficial de la Federación* of 27 July 1993, and the amendments to said Act, as published in the *Diario Oficial de la Federación* of 13 March 2003 and 24 January 2006.

Mexico City, Federal District, 12 December 2006.- Mr **Manlio Fabio Beltrones Rivera**, Presiding.- Dep. **Jorge Zermeno Infante**, Presiding.- Mr **Renan Cleominio Zoreda Novelo**, Secretary.- Dep. **Ma. Mercedes Maciel Ortiz**, Secretary.- Signed."

Pursuant to Article 89, section I, of the Political Constitution of the United Mexican States, and for due publication and observance, I issue this Decree at the seat of the Federal Executive in Mexico City, Federal District, on the twentieth day of the month of December of the year two thousand and six.- **Felipe de Jesús Calderón Hinojosa**.- Signed.- Minister of the Interior, **Francisco Javier Ramírez Acuña**.- Signed.
