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27 November 2015

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

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

DOMINICAN REPUBLIC

Supplement

The following communication, dated 18 November 2015, is being circulated at the request of the delegation of the Dominican Republic.

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In accordance with Article 18.5 of the Agreement on Implementation of Article VI of the GATT 1994, Article 32.6 of the Agreement on Subsidies and Countervailing Measures and Article 12.6 of the Agreement on Safeguards, the Dominican Republic herewith submits the new Implementing Regulations for Law No. 1-02 on Unfair Trade Practices and Safeguard Measures, adopted on 10 November 2015.

IMPLEMENTING REGULATIONS FOR LAW NO. 1-02 ON UNFAIR TRADE PRACTICES AND SAFEGUARD MEASURES

Santo Domingo, Dominican Republic
10 November 2015

REGULATIONS IMPLEMENTING THE LAW

TITLE I
GENERAL PROVISIONS

SOLE CHAPTER
PURPOSE, SCOPE AND DEFINITIONS

Article 1. The purpose of these Regulations is to lay down the provisions required to implement Law No. 1-02 on Unfair Trade Practices and Safeguard Measures including the criteria and administrative procedures to be observed by the Commission for the Regulation of Unfair Trade Practices and Safeguard Measures in relation to investigations conducted and anti-dumping or countervailing duties and safeguard measures applied by the Dominican Republic.

Paragraph. These Regulations cover the provisions on the operating institutional framework for the Commission for the Regulation of Unfair Trade Practices and Safeguard Measures, hereinafter the "CDC".

Article 2. The following abbreviations shall be used in these Regulations:

(1) **CDC:** Acronym for the Trade Defence Commission, the short name of the Commission for the Regulation of Unfair Trade Practices and Safeguard Measures established under Law No. 01-02 of 18 January 2002. In these Regulations, references to the CDC shall be construed as being to the institution in general and not exclusively to the Plenary session of the CDC;

(2) **DEI:** Investigations Department of the CDC;

(3) **DGA:** Directorate-General of Customs;

(4) **GATT:** The General Agreement on Tariffs and Trade 1994;

(5) **Law:** Law No. 1-02 on Unfair Trade Practices and Safeguard Measures of 18 January 2002;

(6) **WTO:** World Trade Organisation;

(7) **PEI:** Institutional Strategic Plan;

(8) **POA:** Annual Operational Plan;

(9) **SAT:** Early Warning and Monitoring System;

(10) **SCJ:** Supreme Court of Justice;

(11) **SIADEC:** Trade Defence Information and Support Services.

Article 3. For the purposes of these Regulations, the following definitions shall apply:

(1) WTO Agreements: Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, Anti-Dumping Agreement, the Agreement on Subsidies and Countervailing Measures and the Agreement on Safeguards;

(2) Threat of injury: In the case of dumping or subsidies, the clearly foreseen and imminent change in circumstances which would create a situation in which the dumped or subsidized imports would cause material injury to the domestic industry. This is to be based on facts and not mere allegation, conjecture or remote possibility;

(3) Threat of serious injury: In the case of safeguards, serious injury that is clearly imminent, based on facts and not merely on allegation, conjecture or remote possibility;

(4) Import charges: Tariffs, duties, and other fiscal charges not mentioned in this Article that are levied on imports;

(5) Full amount of the subsidy: The absolute monetary value, in terms of Dominican pesos, of the benefit received by a person eligible for a subsidy or subsidy programme which may be under investigation and subject to countervailing duties;

(6) Injury: In the case of dumping or subsidies, the adverse effects on a domestic industry caused by "dumped" imports or any type of specific subsidy;

(7) Serious injury: In the case of safeguards, a significant overall impairment in the position of a domestic industry;

(8) Anti-dumping duty: The special duty imposed in order to offset or prevent dumping, which causes or threatens to cause injury, of any product subject to such a practice, but the duty may not exceed the margin of dumping with respect to the product concerned;

(9) Countervailing duty: The special duty imposed for the purpose of offsetting any subsidy of a type regulated by the Law or these Regulations granted directly or indirectly for the manufacture, production or export of any merchandise that may cause or threaten to cause injury to a domestic industry;

(10) Days: Working days, excluding Saturdays, Sundays and holidays. If the last day of any authorized time-limit is not a working day, that time-limit shall be understood to be automatically extended to the first working day thereafter;

(11) Domicile: In the case of natural persons, their main place of business or that of their legal representative. In the case of legal persons, the site of their head office or that of their representative. For legal persons resident abroad, the site of their head office in their own country or the office known to the CDC or, in its absence, the office specified by the interested party;

(12) Dumping: A product is considered as having been dumped, i.e. when it is introduced into the commerce of another country at less than its normal value, if the export price of the product exported from one country to another is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country;

(13) Centrally Planned Economy: The CDC shall deem to be centrally-planned economies those the cost and pricing structures of which do not reflect market principles, or in which the enterprises of the sector or industry under investigation have cost and pricing structures which are not determined in accordance with such principles. Hence, in both cases, sales of the like product in the country in question do not reflect the market value or the value of the factors of production used in manufacturing a like product in a third country with a market economy.

(14) Confidential information: Information whose disclosure would be of significant competitive advantage to a competitor or would have a significantly adverse effect upon a person supplying it or upon a person from whom the latter acquired the information;

(15) Direct taxes: Taxes on wages, profits, interest, income, fees or royalties and any other form of income, as well as real estate tax;

(16) Indirect taxes: Sales, consumption, turnover, value added, franchise, stamp, transfer, inventory and equipment taxes, border taxes and all taxes other than direct taxes and import charges;

(17) Margin of dumping: The difference between the export price and the normal value on the basis of a comparison of both pursuant to the provisions of these Regulations;

(18) Safeguard measures: Measures to temporarily regulate imports in order to prevent or remedy any serious injury or threat of serious injury to domestic industry arising from unfair practices of dumping and to facilitate adjustment by domestic producers. In these Regulations, pursuant to the Law, the word "safeguards" shall have the same meaning as the word "safeguards" in the WTO Agreement on Safeguards;

(19) Interested parties: Exporters, foreign producers or importers of a product under investigation, or trade or business associations a majority of the members of which are producers, exporters or importers of such product; the government of the exporting country and the producers of the like product in the importing country or trade or business associations a majority of the members of which produce the like or directly competitive product in the Dominican Republic.

(20) Accredited interested parties: Interested parties as defined in Article 38 of the Law, who have expressly stated their interest in participating in an investigation in the time limit set;

(21) Unfair trade practices: In terms of international trade, this covers dumping or subsidization which cause or threaten to cause injury to a domestic industry;

(22) Export price: Without prejudice to the provisions of Article 12 of the Law, the comparable price actually paid or payable for the product sold for export to the Dominican Republic;

(23) Like product: A product which is identical, i.e. alike in all respects to the product under consideration or, in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration. The following factors, among others, may be considered in determining the likeness of the product: the physical characteristics of the products (nature, properties and quality); the products' end uses; consumers' tastes and habits and the customs classification of the products;

(24) Directly competitive product: In the case of safeguards, a product whose physical characteristics and composition differ from those of the imported product but which fulfils the same functions, meets the same needs and is commercially substitutable;

(25) Related producers: Domestic producers are deemed to be related to exporters or importers if: (a) one of them directly or indirectly controls the other; (b) both of them are directly or indirectly controlled by a third person; or (c) together they directly or indirectly control a third person, provided that there are grounds for believing or suspecting that the effect of the relationship is such as to cause the producer concerned to behave differently from non-related producers;

(26) Domestic industry in the case of dumping or subsidies: Domestic producers as a whole of the like products or those of them whose collective output of the products constitutes a major proportion of the total domestic production of those products;

(27) Domestic industry in the case of safeguard measures: Producers as a whole of the like or directly competitive products operating within the Dominican Republic, or those whose collective output constitutes a major proportion of the total domestic production of those products;

(28) Trade Defence Information and Support Services (SIADEC): A public and open service provided by the CDC for the purpose of assisting, informing and training entrepreneurs, especially small and medium-sized enterprises, in areas within its competence.

(29) Early Warning and Monitoring System (SAT): A tool for monitoring the actions of CDC counterparts and the behaviour of imports entering the Dominican Republic, with a view to proactively defending the domestic production system using the mechanisms available to the CDC.

(30) Specific subsidies: Those that are limited to one or more industries, an enterprise or a group of enterprises, or to those located in a particular geographical area. Prohibited subsidies shall also be deemed to be specific subsidies. The setting or change of generally applicable tax rates by all levels of government entitled to do so shall not be deemed to be a specific subsidy for the purposes of these Regulations;

(31) Prohibited subsidies: Subsidies contingent, in law or in fact, whether solely or as one of several other conditions, upon export performance and subsidies contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods;

(32) Amount of the subsidy: *Ad valorem* rate of subsidization relating to a subsidy or the subsidy programme, calculated by dividing the subsidy POI amount by the value of the relevant sales by the foreign producer or exporter throughout the subsidy POI;

(33) Normal value: The price for the product concerned in the ordinary course of trade when destined for consumption in the market of the exporting country;

(34) Sales not in the ordinary course of trade: Sales at prices below per unit (fixed and variable) costs of production plus administrative, selling and general costs over an extended period of time (normally one year but in no case less than six months) in substantial quantities, as well as sales to third parties related to an exporter under investigation and the sale of an enterprise that is being liquidated to an independent buyer.

TITLE II
INSTITUTIONAL FRAMEWORK AND ORGANIZATION

CHAPTER I
COMMISSION FOR THE REGULATION OF UNFAIR TRADE PRACTICES AND SAFEGUARD MEASURES

Article 4. The CDC comprises:

(a) the Plenary session of Commissioners;

(b) the Executive Directorate;

(c) the Investigations Department;

(d) the technical and administrative departments and units that are required for effectively discharging its functions.

First paragraph. In these Regulations, the powers and functions of the CDC shall include institutional competencies exercised by the different working departments as determined in its internal manuals or through resolutions of the Plenary.

Second paragraph. The powers and functions of the Plenary as the governing body of the CDC shall be assigned as such through resolutions, where applicable.

Article 5. Members of the CDC Plenary Session may not be removed from office during the term of their appointment, except in cases of serious misconduct within the meaning of Law 41-08 on Public Service or any other that may contain provisions on the matter.

First paragraph. In cases where it proves necessary to remove or replace one or more members of the CDC, the Executive Branch shall be requested to appoint the replacement member once the disciplinary process has been exhausted in the relevant body.

Second paragraph. The Commissioners may appeal before the Supreme Court of Justice an enforceable decision revoking their mandate, which shall be heard and judged by the Court sitting in full session.

Article 6. In accordance with the provisions of Article 84 of the Law, the CDC Plenary shall have the following jurisdictional, administrative and governmental powers:

I. Jurisdictional powers:

(a) to accept or reject, through a reasoned decision, the request for an investigation of unfair trade practices, and in the case of an unforeseen increase in imports, the request for an investigation into the implementation of safeguard measures;

(b) to authorize, through a reasoned decision, the initiation of *ex officio* investigations;

(c) to decide the imposition of anti-dumping duties, countervailing duties or safeguard measures, as appropriate in each case;

(d) to declare investigations closed;

(e) to deal with applications for reconsideration;

(f) to accept price undertakings when appropriate;

(g) request or approve the participation of experts where necessary;

(h) to grant extensions for the fulfilment of legal obligations or resolutions, when it so deems necessary; and

(i) to decide on reviews relating to the measures taken.

II. Administrative powers:

(a) to develop policies and approve the institution's statutes, regulations and organizational and procedural manuals;

(b) to issue the Regulations Implementing the Law, as well as general and special resolutions on matters within its remit and which are essential to the proper administrative functioning of the CDC, the Executive Directorate and the support units;

(c) to appoint the Executive Director of the CDC and the technical and administrative staff required for the performance of its statutory functions based on the organizational structure of the CDC;

(d) approve its Institutional Strategic Plan (PEI) and Annual Operational Plan (POA) and monitor their implementation;

(e) to formulate, present and execute the institution's budget of income and expenditures;

(f) to approve the financial statements prepared by the Administrative and Financial Department and the annual report of the institution;

(g) to determine, in accordance with the institution's actual budgetary situation, the salaries payable to all CDC staff;

(h) to set the fees payable for the reception and processing of applications for investigation;

(i) to select the Commissioner responsible for the administrative and procedural management of each case;

(j) to determine the CDC's information management policy, ensuring the protection of all confidential information;

(k) to establish the rules of conduct and communication and the prohibitions governing contacts between Commissioners and interested parties in ongoing or impending investigations;

(l) to issue the policy governing communications, public relations, media participation and speaking on behalf of the CDC;

(m) to monitor implementation of adjustment programmes for domestic industries benefitting from safeguard measures; and

(n) to delegate, by resolution, the administrative powers of the Executive Director that do not require the approval of the Plenary.

III. Governmental powers:

(a) to maintain timely and transparent communication with the highest levels of Government in all investigation procedures which, owing to their political sensitivity, must be fully known to them;

(b) to publicize the content of the Law, its Implementing Regulations and its resolutions and ensure compliance with them by CDC staff and stakeholders;

(c) to promote national, regional and international cooperation through the signing of inter-institutional cooperation agreements with government bodies in the Dominican Republic and with their foreign counterparts;

(d) request compliance of its resolutions by the Ministry of Finance, through the Directorate-General of Customs (DGA), and by any other government authorities that may be concerned with the matters under its responsibility;

(e) to coordinate with other public institutions the representation of the interests of the Dominican State in international bodies and other countries, in matters falling within its sphere of competence;

(f) to oversee and participate in dispute settlement procedures in areas within its remit;

(g) to coordinate trade defence matters in the framework of trade negotiations undertaken by the Dominican Republic; and

(h) to participate in WTO meetings and committees relating to topics within its remit.

SECTION I
The quorum and sessions of the CDC

Article 7. Regular Plenary Sessions shall take place on a weekly basis.

First paragraph. Regular sessions shall be convened in writing with three (3) days prior notice if the date has not been previously agreed upon.

Second paragraph. Special Plenary sessions may be held when convened by any of the Commissioners by means of a reasoned request. Special sessions shall be convened in writing with two (2) days prior notice.

Third paragraph. For the purposes of all written notifications referred to in this chapter, communications sent electronically or via any other medium that allows for acknowledgement of receipt shall be deemed to be valid.

Article 8. The agenda for regular meetings, together with the relevant accompanying documents, shall be given to members of the CDC Plenary at least three (3) days in advance. For special sessions deemed to be emergency meetings, they must be given at least forty-eight (48) hours in advance.

Article 9. For Plenary sessions of the CDC to deliberate and take decisions validly, at least four (4) members must be present. The decisions of the CDC Plenary shall be taken with three (3) Commissioners voting in favour.

First paragraph. Plenary sessions may be held with at least three (3) Commissioners in attendance. These meetings shall be of an informative and non-deliberative nature.

Second paragraph. If no quorum is found, the Chairperson shall declare the meeting suspended or a vote shall be taken for the meeting to be held as an informative and non-deliberative one.

Third paragraph. The Plenary shall strive to ensure that all its members take part in decision-making. To that end, exchanges by electronic or other means which ensure that each Commissioner has the opportunity to cast their vote shall be validated.

Fourth paragraph. The Chairperson of the Plenary shall be empowered to exercise a casting vote. In cases where the Chairperson is not so empowered, this vote shall be attributed to the eldest Commissioner.

Fifth paragraph. Commissioners may justify their conclusions individually if they do not agree with the final decision adopted. The grounds for votes against decisions shall be given and noted in the decision.

Article 10. Commissioners who are blood relations to the fourth degree or relations by affinity to the second degree of any of the parties involved or who have maintained professional or commercial relations with, or have worked under the authority of, any such party over the previous five (5) years shall recuse themselves from involvement in any part of the procedure.

Paragraph. A Commissioner who is affected by any of the grounds cited shall inform the Plenary of his ineligibility to deal with the matter and this shall be duly communicated to the parties within the ten (10) days following the acceptance of the request.

Article 11. The parties shall be entitled to challenge one or more Commissioners who have not disqualified themselves from the process despite being concerned by the grounds for disqualification, or when the parties provide proof or evidence that a Commissioner has prejudiced the case.

First paragraph. The parties may challenge the Commissioner(s) within ten (10) days of notification of the initiation of an investigation or of taking cognizance of the compromising fact.

Second paragraph. During the examination of the recusal, the Commissioner(s) being challenged shall not be entitled to vote.

Third paragraph. The application for recusal must be examined by the CDC Plenary session.

Article 12. When the disqualification or recusal of one or several Commissioners is admissible, a reasoned decision must be issued accepting or rejecting the request for recusal. The investigating Commissioners shall request, by means of a written resolution addressed to the President of the Supreme Court of Justice (SCJ), the appointment of a judge to act as an alternate in the hearing of the case, from the roster of judges trained by the CDC.

Paragraph. The SCJ shall communicate the appointment within a maximum of fifteen (15) days counted as from the date of request. The lack of an appointment within the time-frame indicated shall not prevent the CDC from examining the request.

CHAPTER II
CHAIRPERSON OF THE CDC

Article 13. The Chairperson of the CDC is its legal representative and chief executive. He shall devote himself on a full-time basis to the functions attributed to him as Chairperson of the CDC and may not hold any public or private office except for academic or honorary ones that do not entail a conflict of interests.

Article 14. The functions of the CDC Chairperson are to:

(a) chair regular and special Plenary sessions;

(b) submit the institution's annual reports to the Executive and Legislative Branches;

(c) sign communications or requests addressed to bodies of identical or higher rank, and to international bodies;

(d) sign the payroll and budgetary requirements of the CDC;

(e) sign the contracts required for the proper running of activities, after approval by the Plenary;

(f) sign bilateral or multilateral agreements on cooperation, technical assistance or any other matter with national and international bodies pursuant to the relevant domestic legislation, with the prior authorization of the Plenary;

(g) perform any other function that is delegated to him by the Plenary.

CHAPTER III
THE EXECUTIVE DIRECTOR

Article 15. The Executive Director shall be appointed by the Plenary session of the CDC and shall exercise his functions on a full-time and exclusive basis. He shall be required to meet at least the following requirements:

(a) be a Dominican citizen having the full exercise of his civil and political rights;

(b) not have been sentenced to a penalty for a felony, or be under investigation;

(c) not have been dismissed from public or private office as a result of his performance being called into question;

(d) must hold a non-honorary, professional university qualification at post-graduate level in Law, Economics or International Trade;

(e) must have proven experience of over three (3) years in fields relating to foreign trade, the domestic industry or in a senior managerial position in a public or private institution entailing the supervision of staff and the inter-departmental or inter-institutional coordination of activities.

Article 16. The functions of the Executive Director are to:

(a) receive and process communications addressed to the CDC, including requests for investigations;

(b) act as Secretary to Plenary sessions and as such prepare the agendas and accompanying documents, keep records of meetings and prepare draft resolutions for signature by Commissioners;

(c) issue copies of records, decisions and documents in his custody or deposited with the CDC, with the approval of the Plenary;

(d) direct, coordinate and monitor the technical and administrative affairs of the various sections of the CDC, as well as support it in the performance of its functions;

(e) draw up and submit for approval by the Plenary the annual report of the institution, the work plan and the annual operating budget of the CDC;

(f) oversee the implementation of the CDC's strategic and operational plans, ensuring the timely execution of all activities and actions required for the attainment of objectives, and propose to the Plenary any adjustments that may be needed so as to adapt them to circumstances that may arise during the period of execution;

(g) recommend to the Plenary the appointment and dismissal of staff of the institution;

(h) coordinate training activities as well as studies, projects and other investigative and outreach activities in order to foster a culture of trade defence among the country's economic agents;

(i) coordinate visits by accredited interested parties and their transportation to facilities in connection with ongoing or impending investigations and reviews and of the CDC representatives who will be involved in each one. All Commissioners shall be apprised of the visits and their results shall be put down in writing and placed on the relevant files;

(j) process and notify all actions and/or resolutions to the WTO and other concerned organizations or parties, as appropriate in each case;

(k) manage the CDC's economic and financial resources in keeping with the parameters set by the Plenary;

(l) undertake regular purchases of materials as well as the repairs needed to preserve movable and immovable property and ensure the proper functioning of the CDC; and

(m) perform any other function that may be assigned to him by the Plenary in keeping with the nature of the position.

CHAPTER IV
INVESTIGATIONS DEPARTMENT

Article 17. The Investigations Department (DEI) shall comprise professionals with recognized technical and analytical competence and of irreproachable moral standing.

Article 18. The main function of the DEI is to conduct trade defence investigations. To that end it shall:

(a) investigate, at the request of the Plenary through the Executive Directorate or *ex officio*, allegations by an interested party;

(b) perform the technical tasks associated with the various stages of the investigation procedures that serve as the basis for decision-making by the Plenary;

(c) monitor implementation by the DGA of measures adopted by the CDC;

(d) follow up and monitor trade defence investigations and cases being handled by counterpart authorities;

(e) prepare studies, papers and undertake other investigative and outreach activities relating to the SIADEC and matters within its sphere of competence;

(f) submit the outcomes of investigations to the Plenary;

(g) manage the SAT, including the gathering and analysis of domestic and international trade statistics;

(h) keep abreast and inform the Plenary, through the Executive Directorate, of developments in WTO rules and disciplines on the matter and those deriving from international agreements; and

(i) undertake any other task that may be requested by the CDC Plenary, through the Executive Directorate, in keeping with the nature of its functions.

Article 19. The DEI shall be responsible for registration, classification, preparation of notices, verification of documents, the maintenance of public and confidential archives, as well as monitoring the procedures used for each case of investigation.

Article 20. The DEI shall be governed by guidelines set by the CDC Plenary, and all requests regarding a specific case shall be communicated to it directly or through the Executive Directorate.

CHAPTER V
SPECIAL SERVICES FOR THE DEFENSE OF DOMESTIC PRODUCERS

Article 21. The CDC may, at the request of an interested party or *ex officio*, advise domestic exporters involved in investigations abroad on matters falling within its sphere of competence.

Article 22. The CDC may become an interested party, in representation of the Dominican State, in investigations being conducted by CDC counterparts into unfair international trade practices and safeguard measures.

Article 23. The CDC, through the SAT, shall follow up actions carried out by CDC counterparts and shall continually monitor the behaviour of imports entering the Dominican Republic, with a view to proactively defending the domestic production system using the mechanisms available to the CDC.

Article 24. Through the SIADEC, the CDC shall assist, inform and train enterprises and the public in general, especially small and medium-sized enterprises, in matters falling within its sphere of competence.

Paragraph. Through the SIADEC, the CDC shall strictly provide information and guidance while remaining impartial at all times. Enterprises shall be responsible for formulating their requests, as well as for collecting and submitting evidence.

TITLE III
GENERAL PROVISIONS
APPLICABLE TO ALL PROCEDURES

CHAPTER I
REQUEST FOR THE START OF AN INVESTIGATION

Article 25. The reports of DEI shall contain but not be limited to the following determinations and analyses in all investigations:

(a) Like or directly competitive goods;

(b) domestic industry;

(c) analysis of the behaviour of imports;

(d) dumping and/or subsidization, as appropriate;

(e) analysis of injury or the threat of injury;

(f) analysis of serious injury or threat thereof, in the case of safeguards; and

(g) causal link.

Paragraph. In cases where the information compiled in the dossier supplied by the accredited interested parties is not sufficient, the DEI shall be able gather additional information through different sources and investigation techniques.

Article 26. Investigations to determine the existence of dumping, subsidization, or an unforeseen increase in imports that warrants the adoption of safeguard measures may be initiated:

(a) upon a written request addressed to the CDC by or on behalf of a domestic industry; or

(b) *ex officio* by the CDC.

Paragraph. In addition to the criteria laid down in Articles 35 and 60 of the Law, the CDC may undertake *ex officio* investigations when domestic production is highly fragmented, not organized or the national interest is at stake.

Article 27. The CDC may initiate an investigation when it has determined that:

(a) the application has been made by the domestic industry or on its behalf, or the criteria for ex officio initiation have been met;

(b) there is sufficient evidence of the existence of dumped or subsidized imports, injury and causal link; or

(c) in the case of safeguard measures, as a result of unforeseen developments and the effect of obligations incurred by the Government of the Dominican Republic under the GATT, the investigated product is being imported in such increased quantities and under such conditions as to cause or threaten to cause serious injury to the domestic industry producing like or directly competitive products.

Article 28. An application shall be deemed to have been made by or on behalf of the domestic industry if it is supported by those domestic producers whose collective output constitutes more than 50% of the total production of the like product produced by that portion of the domestic industry expressing either support for or opposition to the application. However, no investigation shall be initiated when domestic producers expressly supporting the application account for less than 25% of total production of the like product produced by the domestic industry.

Article 29. An application shall contain a description of the facts and be accompanied by the reasonable evidence available on which it is based. The facts shall be described succinctly, clearly and precisely, as shall the causal link, such that it can be determined that the entry of the products in question into the domestic market is causing or threatens to cause injury to the domestic industry.

Article 30. The application and the forms sent out by the CDC and duly completed, as well as the accompanying documents, shall be submitted in digital format that allows for their manipulation by the CDC, and in original hard copy versions together with two (2) copies.

Article 31. The CDC shall decide whether or not to initiate an anti-dumping investigation within a period of thirty (30) working days to be counted from the date of receipt of the written application. If the application raises complex issues or if the CDC requires additional information from the applicant or needs further evidence, this period may be extended to forty-five (45) working days.

First paragraph. When requested to provide additional information, the applicant shall have a period of five (5) working days as of the date of the CDC's request in which to supplement the information.

Second paragraph. The CDC shall examine the accuracy and adequacy of the evidence provided by the applicant and shall submit a report based on which it must decide on the launch of the investigation, through a reasoned decision, which must be notified in accordance with the guidelines prescribed in these Regulations.

Article 32. Unless a decision has been made to initiate an investigation, the CDC shall avoid publicizing the application for the start of an investigation in any way.

First paragraph. In anti-dumping investigation procedures, after receipt of a properly documented application and before proceeding to initiate an investigation, the CDC shall notify the government of the exporting country.

Second paragraph. In the case of subsidy investigations, as soon as application for the initiation of an investigation has been accepted, and before the investigation is initiated, the CDC shall invite for consultations the government representatives of the countries the products of which may be subject to such investigation.

Article 33. Any application made in accordance with the Law and these Regulations may be withdrawn by the applicant before or after the initiation of the investigation.

Article 34. Once the CDC has decided to initiate an investigation, it shall issue an initiating resolution which must be notified to the known parties and shall publish it in a national newspaper and on the CDC website within the time limit stipulated in these Regulations; the resolution shall contain the following information:

(a) the name of the exporting country or countries, and if different, the country or countries of origin of the investigated product;

(b) a full description of the investigated product, including the technical characteristics and uses of the product and its current tariff classification number(s) and the applicable duties;

(c) a complete description of the domestic like or directly competitive product, including its technical characteristics and uses;

(d) the starting date of the investigation;

(e) the grounds for the allegation of dumping stated in the application, in cases of anti-dumping investigations;

(f) a description of the subsidy practice to be investigated, in cases of subsidy investigations;

(g) for safeguard investigations, a summary of the information on which the allegations of increased imports and serious injury or threat thereof caused by increased imports are based, including a summary of the unforeseen developments that led to the alleged increase in imports of the investigated product, or to the change in the conditions under which such imports occur, and a summary of the effect of relevant obligations incurred by the Government of the Dominican Republic under the GATT, and whether or not application of a provisional measure will be considered;

(h) a summary of the factors forming the basis of the allegation of injury and causal link;

(i) the names of the requesting enterprises, if any, and of all known producers of the domestic like or directly competitive products;

(j) the domicile selected by the interested parties according to the application for initiation of an investigation;

(k) the time limit given to members and interested parties to make their views known;

(l) the address for the submission of information and comments;

(m) the proposed timetable for the investigation; and

(n) any other information deemed necessary by the CDC.

First paragraph. In the case of anti-dumping investigations of centrally planned economy countries, the initiating resolution shall determine the substitute country to be used to calculate normal value and the reasons for its selection.

Second paragraph. If there are other interested parties desiring to participate in the investigation, they shall have a period of fifteen (15) working days from the date of the notification to indicate to the CDC in writing their interest in participating in the investigation.

Article 35. Where the CDC has decided not to initiate an investigation, the notice regarding that stage must contain the following information:

(a) the identity of the requesting enterprises, and the domestic products with respect to which initiation was requested;

(b) an identification of the imported product; and

(c) the reasons for not initiating an investigation.

Article 36. The start of an investigation procedure under the Law and these Regulations shall not hinder customs clearance.

Article 37. The CDC shall, except in special circumstances, endeavour to conclude its investigations within six (6) months, and in no case more than eighteen (18) months after their initiation.

Paragraph. This time limit shall be calculated as of the date of publication of the notice initiating the investigation.

CHAPTER II
NOTIFICATIONS

Article 38. The notices regarding the start of an investigation and provisional and final decisions, amendments to them, and those terminating the investigation shall be published in a national newspaper, and shall state how and where copies of the said documents can be obtained.

First paragraph. In the case of safeguard investigations, the resolution accepting or rejecting the request for the start of an investigation must be published.

Second paragraph. In the case of safeguard investigations, the final report must be published on the CDC website.

Article 39. Resolutions by the CDC shall be duly substantiated in order to inform interested parties of the legal and factual bases underpinning the decision. They shall be published in full on the CDC website.

Article 40. The CDC shall give written notice to accredited interested parties, entities administering trade agreements or to the WTO, as appropriate, of resolutions issued in connection with the procedures referred to in the Law and in these Regulations. Such notification shall be made no later than five (5) days after the date of signature of the resolution.

First paragraph. In the case of documents sent abroad, they shall be deemed to have been received one week after the date of dispatch. Once that week has elapsed, the relevant timeframes shall begin to run.

Second paragraph. Notifications shall require acknowledgment of receipt of the corresponding dispatch. Acknowledgements of receipt, returned documentation and any other acknowledgment of receipt shall be placed on the administrative file.

Article 41. The CDC, through the Ministry of Foreign Affairs (MIREX), shall effect the relevant notifications resulting from investigations concerning the application of anti-dumping or countervailing duties or safeguard measures, pursuant to the WTO Agreement.

Article 42. In cases where the CDC does not know the address of the natural or legal persons to be notified, they shall be deemed to have been notified once notice of the start of the investigation has been published in a national daily newspaper.

First paragraph. In the case of persons residing abroad, the CDC shall send notifications to the diplomatic and/or consular representations of the foreign governments accredited in the Dominican Republic so as to create the requisite mechanisms for disseminating the content of resolutions, or to the Ministry of Foreign Affairs of the country concerned.

Second paragraph. For the purposes of this Article, the notification date shall be deemed to be that on which the notice is published in the national newspaper.

CHAPTER III
THE INVESTIGATION

Article 43. Upon initiation of the investigation, the CDC shall send questionnaires to any person it may deem to be in possession of information relevant to the investigation, including domestic and foreign producers, importers, exporters and the governments of the countries the products of which are subject to such investigation.

First paragraph. The CDC shall allow a minimum period of thirty (30) working days in which to receive a reply from the parties to whom questionnaires are sent. The CDC shall give due consideration to any request for an extension of the period, and shall grant such an extension whenever practicable, upon good cause shown, taking into account the time limits for the investigation.

Second paragraph. The time periods for questionnaires sent abroad shall be calculated in accordance with the provisions of these Regulations contained in the section on notifications.

Third paragraph. The CDC may disregard replies to questionnaires not submitted within the time limit envisaged and in the manner requested.

Article 44. Subject to the stipulations of these Regulations regarding the protection of confidential information, as soon as the investigation is initiated the CDC shall make available the full text of the written application received to the known exporters and foreign producers and to the authorities of the exporting country and, upon request, to other interested parties.

Paragraph. Where the number of exporters involved is particularly high, the CDC may provide the text to the relevant trade association(s) or, where that is not possible, to the authorities of the exporting country or countries for dissemination by them.

Article 45. During the investigation, the CDC may seek information from any interested party and consult other sources of information and may also undertake verification visits.

Article 46. The CDC may, at any point in the investigation, retain the services of consultants to provide support in investigating, ascertaining and verifying information and data needed to enable it to issue its resolutions.

Article 47. During the investigation, all the accredited interested parties shall have ample opportunity to defend their interests, as well as to present evidence and state their views. For this purpose, and subject to a written request, the CDC shall give all accredited interested parties the opportunity of meeting with those parties having an opposing interest in order to explain their opposition and arguments against. When providing such an opportunity, the need to protect the confidential nature of information shall be taken into account.

Paragraph. After receiving a request, the CDC shall examine the solution proposed and, where appropriate, within five (5) working days of receipt of the request, shall invite other accredited interested parties to state their views within the five (5) working days following the invitation.

Article 48. At any point in the course of the investigation, the CDC may request the accredited interested parties to provide additional clarifications or information through supplemental questionnaires or written requests. Such requests shall indicate the date by which the reply is to be given. Whenever feasible and depending on the time limits laid down, sufficient time shall be given to allow significant replies to be submitted.

Article 49. The CDC may decide to apply a provisional measure, once a period of 60 days has elapsed as from publication of the initiation of the investigation.

First paragraph. Provisional measures in cases of safeguard investigations shall be applied for a period not exceeding 200 days.

Second paragraph. In subsidy investigations, provisional measures shall be applied for the shortest possible period, which may not exceed four (4) months.

Third paragraph. In anti-dumping investigations, provisional measures shall be limited to as short a period as possible, not exceeding four (4) months or, upon request by exporters representing a significant percentage of the trade involved, to a period not exceeding six months. When in the course of an investigation the CDC examines whether a duty lower than the margin of dumping would be sufficient to remove injury, these periods may be six (6) or nine (9) months, respectively.

Article 50. The DGA is the government entity empowered to apply and collect the resources corresponding to the trade remedies resulting from investigations undertaken by the CDC.

SECTION I
Treatment of confidential information

Article 51. Parties seeking confidential status for certain information shall request such treatment at the time such information is submitted, including the reasons why confidential treatment is warranted.

Paragraph. Confidential Information shall be deemed to be information whose disclosure would be of significant competitive advantage to a competitor or would have a significantly adverse effect upon a person supplying it or upon a person from whom the latter acquired the information.

Article 52. Any information which is by nature confidential or which is provided on a confidential basis by the parties to an investigation shall be treated as such by the CDC. The following information is deemed confidential:

(a) business or trade secrets concerning the nature of a product;

(b) production processes or operations for the product involved, and production equipment or machinery;

(c) production costs and specification of components;

(d) distribution costs;

(e) terms and conditions of sale, except those offered to the public;

(f) expansion and marketing plans;

(g) selling prices by transaction and by product, except components of prices such as dates of sales and distribution of the product, and transport if by public routes;

(h) identification of clients, distributors or suppliers;

(i) the exact amount of the margin of price discrimination in individual sales;

(j) the amounts of adjustments for terms and conditions of sale, volume or quantities, variable costs and tax charges;

(k) levels of inventories and sales;

(l) information concerning the financial condition of a company that is not public, including amount or source of any profit, losses, or expenses relating to the production or sale of a specific product; and

(m) any other specific information about the enterprise concerned whose disclosure or dissemination to the public may cause injury to its competitive position.

Article 53. The CDC shall, during and after an investigation, keep confidential any information submitted to it which is entitled to such treatment. Such information shall not be disclosed without specific permission of the party submitting it.

Paragraph. The information shall be kept confidential for the period requested by the party concerned. The provisions of the General Law on Archives *(Ley General de Archivos)* No. 481-08 must nonetheless be observed.

Article 54. Any confidential information provided by the parties in the investigations referred to in the Law and these Regulations shall be accompanied by the corresponding non-confidential summary. These summaries shall be sufficiently detailed to permit a reasonable understanding of the substance of the information submitted in confidence.

First paragraph. In exceptional circumstances, the parties may indicate that such information is not susceptible of summary, in which case a statement of the reasons why summarization is not possible must be provided. If the reasons are not provided, the information shall be disregarded by the CDC.

Second paragraph. The CDC shall consider such requests expeditiously, and inform the party submitting the information if it determines that the request for confidential treatment is not warranted. It will also issue resolutions on confidentiality informing the parties regarding information to be treated as confidential.

Third paragraph. If the CDC finds that a request for information deemed confidential is not warranted, and if the supplier of the information is unwilling to make the information public, the CDC may disregard such information, and shall return it to the party submitting it.

Article 55. If information has been classified as confidential and the interested party has not submitted any justification or the corresponding non-confidential summary, or the corresponding public version of the information, the CDC shall request that justification for the confidential nature of the information and the non-confidential summary be furnished within three (3) working days. The CDC shall not examine the application until it has been completed within the aforementioned time limit.

Article 56. The CDC alone shall have access to the information declared to be confidential. In the event that there is a WTO dispute settlement procedure in progress, the CDC may allow the National Coordinating Authority in WTO Dispute Settlement Processes to access the said confidential documentation in accordance with the CDC's internal processes for the handling of confidential information.

First paragraph. Without prejudice to the provisions of this Article, access to confidential information may be given in writing by the parties involved in the investigation, subject to prior authorization from the party that has supplied the confidential information in question.

Second paragraph. If at any time during the investigation, an accredited interested party refuses access to the necessary information or does not provide it within the period determined by the CDC or significantly impedes the investigation in any other way, the CDC may make preliminary or definitive affirmative or negative determinations on the basis of the information available, including that in the application.

Third paragraph. In the case of anti-dumping investigations, the provisions of Annex II to the Anti-Dumping Agreement shall be observed when applying this Article.

SECTION II
Public file relating to the investigation

Article 57. The CDC shall establish and maintain a public file relating to each investigation or review undertaken pursuant to these Regulations. Subject to the requirement to protect confidential information, the CDC shall promptly place in the public file:

(a) documentary or other information transmitted to the CDC or obtained by the latter in the course of the administrative procedures, including any government communications relating to the case, as well as reports and minutes of meetings with one or all of the accredited interested parties;

(b) the relevant resolutions issued by the CDC;

(c) transcriptions of minutes of meetings or hearings before the CDC;

(d) any verification reports drawn up;

(e) notifications published in the national newspaper and on the CDC website in relation to the administrative procedures, including procedures for the review of the measures adopted;

(f) any other documents the CDC deems appropriate for public disclosure; and

(g) a table of contents for the file.

Paragraph. Any exchange taking place directly or through any conventional or electronic medium between the CDC and any interested party or its representatives during the investigation or review procedures shall be the subject of a written report stating briefly its purpose and its findings. In addition, the report shall include the name and title of the government officials who prepared it, place, signature and date, and shall be placed promptly on the administrative file. In the case of email exchanges, copies of them must be placed on the file.

Article 58. The aforementioned file shall be available to the accredited interested parties for review and copying at the offices of the CDC throughout the course of the investigation or review and any resulting judicial review.

Paragraph. Following the termination of the investigation, the said file shall be available to the general public. For a review to take place, a communication must be submitted together with the request.

CHAPTER IV
EVIDENCE

Article 59. All documentation filed with the CDC to be used as evidence shall be written in the official language of the Dominican Republic or translated clearly and accurately.

First paragraph. The CDC shall accept as evidence public and private documents, reports by the expert(s), administrative verification, oral evidence, and any other method of proof permitted under Dominican legislation.

Second paragraph. To be admitted as evidence, oral testimony must be transcribed and signed by the party submitting it.

Article 60. The period allowed for the submission of evidence shall commence from the day following publication of initiation of the investigation until five (5) working days before the holding of the public hearing, subject to the authority of the CDC to request information at any stage in the proceedings. However, if there are sufficient grounds, the CDC may extend the evidentiary period, though at all times safeguarding the right of defence of all accredited interested parties to the proceedings.

First paragraph. Evidence submitted by parties regarding the ongoing investigation procedure after the expiry of the period for the submission of evidence may not be taken into account for the purposes of the final decision.

Second paragraph. The above notwithstanding, after expiry of the period allowed for submitting evidence, accredited interested parties shall have ten (10) working days in which to transmit to the CDC in writing their conclusions on the merits or on the events that occurred in the course of the procedure.

Article 61. The CDC may request directly from the accredited interested parties, customs agents, forwarders and public and private institutions such data as it considers necessary to the performance of its tasks. This information will be placed in the public file, with the exception of any confidential information.

Article 62. The CDC shall take due account of any difficulties experienced by accredited interested parties, especially small companies, in supplying requested information. In that context, the CDC may provide any assistance practicable for the submission of a given item of information.

CHAPTER V
ON-THE-SPOT INVESTIGATIONS

Article 63. In the course of the investigation, the CDC shall examine the accuracy and adequacy of the evidence provided by accredited interested parties and for that purpose may verify the information and evidence submitted during the course of the investigation, subject to prior authorization from the accredited interested parties whom it is decided to verify.

Paragraph. Upon receipt of a request for investigation and before the start of the procedure, the CDC may undertake fact-finding visits to the requesting domestic industry.

Article 64. The verification visits shall be carried out provided that the consent of the accredited interested parties is obtained. If the verification visit is rejected, the CDC shall act based on the facts known to it.

First paragraph. Verifications of persons domiciled abroad shall be notified to the representatives of the government of the country concerned, and shall take place provided that that country is not opposed to the verification.

Second paragraph. Verification visits must take place in the official language of the Dominican Republic, and should a translator be required, the company to be verified shall provide the same.

Article 65. The accredited interested parties to be verified shall be notified in writing ten (10) working days before the date scheduled for their verification. They shall have a period of three (3) working days in which to notify the CDC whether or not they agree to being verified. The notification shall mention:

(a) the CDC staff who will take part in the verification visit, with any replacements or increases or decreases in their number by the CDC being notified to the enterprise in due time;

(b) the date and time of the verification visit;

(c) the location(s) at which the verification visit will take place;

(d) the grounds or justification for the visit, and its object or purpose;

(e) the timetable for the verification visit; and

(f) the forms and documents that must be made available to the technical staff of the CDC, including but not limited to the following:

(1) audited financial statements;

(2) copies of general ledgers, trial balances and income statements;

(3) information on sales in the domestic market, as well as export sales;

(4) banking and payment documents;

(5) raw materials purchase invoices;

(6) annual and monthly stock assessment schedules;

(7) verification of cost data, including profitability;

(8) manufacturing process;

(9) production, plant capacity and its utilization;

(10) investments, return on investments and capacity to raise investments;

(11) jobs and wages.

First paragraph. After obtaining the consent of the interested parties, the CDC shall send to the authorities in the exporting country the names and addresses of the enterprises to be visited and the dates agreed.

Second paragraph. If it is intended to include non-governmental experts in the investigating team, the firms and the authorities of the exporting country should be so informed. Such non-governmental experts must comply with the provisions on the confidential nature of the information.

Article 66. The accredited interested parties, their representatives or the person responsible for accompanying the technical personnel during the verification visit, are obliged to allow the technical officials designated by the CDC access to the place or places being verified and to make available to them the accounting records and other documents to support the information presented during the investigation.

First paragraph. The technical officials may obtain copies to be compared with the original documents and authenticated by the officials and to be annexed to the record of the visit. Verification shall also be permitted of products, documents, disks, tapes or any other data storage system maintained by the accredited interested party at the places visited.

Second paragraph. If the accredited interested party being visited maintains its accounting system or part of it on an electronic recording system, the computer equipment and its operators shall be made available to the visiting officials so that they can assist them in their work.

Article 67. A record shall be kept of each visit, showing the facts verified. Besides, the CDC shall prepare a report describing the findings of the verification. This verification report, with the exception of any confidential information, shall be placed promptly in the public file.

First paragraph. The record of the visit must be prepared on site and signed by the representatives of enterprise visited, and shall contain the information or data indicated as confidential by the enterprise visited. A copy of this record shall be handed over to the enterprise visited and placed in the public file on the case.

Second paragraph. Should the party being verified deny access to information during the verification visit, this fact shall be mentioned in the report of the verification visit. In such cases the CDC shall base its determinations on the facts known to it.

Third paragraph. Should the verified party refuse to sign the record, the latter shall remain valid.

CHAPTER VI
THE HEARING

Article 68. The CDC shall schedule a hearing at which all the accredited interested parties may put forward their arguments. The hearing shall be held no later than sixty (60) days prior to the date proposed for the final determination.

First paragraph. There shall be no obligation on any accredited interested party to attend a hearing, and failure to do so shall not be prejudicial to that interested party's case.

Second paragraph. Accredited interested parties shall have the right to present arguments orally at the hearing, and that information shall be considered, provided it is subsequently submitted in writing, in a period not exceeding five (5) working days.

Article 69. Any accredited interested party may submit written arguments concerning any matter it considers relevant on the investigation no later than five (5) working days before the date set for the hearing.

First paragraph. Accredited interested parties intending to appear at the hearing shall notify the CDC of the names of representatives and witnesses who will appear at the hearing at least five (5) working days before the date of the hearing.

Second paragraph. Taking account of space and the number of parties in the process, each accredited interested party may be represented by a maximum of three (3) persons, who may include one (1) expert and/or one (1) witness, previously accredited within the stipulated timeframe, and shall explain what is to be proven with the participation of the said expert or witness.

Article 70. Hearings shall be presided over by the Chairperson of the CDC, who shall organize the hearing so as to ensure that all accredited interested parties have an opportunity to present their views.

First paragraph. The hearing shall take place with the attendance of at least four (4) Commissioners and a Secretary, this latter function being performed by the Executive Directorate of the CDC.

Second paragraph. If the Chairperson of the CDC cannot be present, the Commissioner responsible for the investigation shall preside over the session.

Third paragraph. The Chairperson or the designated Commissioner shall consult the other Commissioners regarding approval of the opening, closing and any intervention or decision, and shall respect the decision of the majority of Commissioners present. In the absence of unanimity, the Commissioners shall adjourn their meeting and retire to the consultation room to discuss and take a decision on the matter.

Article 71. An administrative record of the hearing shall be drawn up describing its conduct, irrespective of the outcome. The record shall be signed by the Commissioners and the accredited interested parties or their representatives who have participated, as will a verified attendance list of accredited interested parties.

Article 72. Once the public hearing has begun, the CDC Chairperson or the presiding Commissioner shall raise for discussion the items deemed necessary. Domestic producers, importers and foreign exporters, in that order, shall be permitted to speak. Other accredited parties at the hearing shall speak in order of arrival, according to the registration list.

First paragraph. After the accredited interested parties have outlined their arguments in the aforementioned order, the experts and witnesses shall be permitted to speak.

Second paragraph. The accredited interested parties shall have the opportunity of exercise the right to reply.

Third paragraph. The oral statements may not be interrupted, and the directions of the CDC Chairperson or designated Commissioner must be complied with. Anyone engaging in disorderly behaviour or other misconduct or in any other way affecting the normal course of the hearing shall be removed from the premises, if necessary with the help of the police.

Fourth paragraph. In the event that the allotted time has ended, the accredited interested parties may request extra time from the CDC in which to complete an argument in progress. The extra time shall not exceed five (5) minutes.

Fifth paragraph. When deemed necessary, the Chairperson or the designated Commissioner, through the Secretary to the hearing, may decide on a break, setting the time of resumption of the hearing.

Sixth paragraph. Video and audio recordings shall be made of the hearing.

CHAPTER VII
CIRCUMVENTION

Article 73. Circumvention of anti-dumping, countervailing or safeguard measures shall be deemed to include but not be limited to:

(a) introduction into the national territory of products subject to anti-dumping, countervailing or safeguard measures using a tariff code different from that to which the measure was applied;

(b) introduction into the national territory of inputs, parts or components in order to produce or assemble products subject to anti-dumping, countervailing or safeguard measures;

(c) introduction into the national territory of products subject to anti-dumping, countervailing or safeguard measures with inputs, parts or components incorporated or assembled in a third country;

(d) introduction into the national territory of products from the same country of origin as the product subject to an anti-dumping, countervailing or safeguard measure that have relatively slight differences from the product in question and which can therefore enter under tariff codes different from those subject to the measure;

(e) any other action resulting in failure to pay the anti-dumping or countervailing duty or make the payments relating to the safeguard measure.

Article 74. Circumvention of anti-dumping, countervailing or safeguard measures, whether preliminary or definitive, shall be determined through a special procedure initiated *ex officio* or at the request of or on behalf of the domestic industry.

Article 75. Products imported under one or more of the conditions mentioned in Article 73 shall be subject to the retroactive payment of the total value of the corresponding measure imposed on the product concerned, once the procedure referred to in Article 74 is completed.

TITLE IV
DUMPING

CHAPTER I
APPLICATION FOR DUMPING INVESTIGATIONS

Article 76. An application for initiation of a dumping investigation shall be submitted in writing, together with the investigation forms required by the CDC, and shall meet the requirements laid down in Articles 32 and 33 of the Law. The application shall contain such information as is reasonably available to the applicant on the following:

(a) the identity of the applicant and a detailed description of the volume and value of the domestic production of the like product. Where a written application is made on behalf of the domestic industry, the application shall identify the industry on behalf of which the application is made by means of a list of all known domestic producers of the like product (or associations of domestic producers of the like product) and, to the extent possible, shall provide a description of the volume and value of domestic production of the like product accounted for by such producers;

(b) a full description of the allegedly dumped product, its tariff classification according to the Harmonized System, the name(s) of the country or countries of origin or export in question, the identity of each known exporter or foreign producer and a list of known persons importing the product in question;

(c) information on prices at which the product in question is sold when destined for consumption in the domestic market(s) of the country or countries of origin or export or, where applicable, information on the prices at which the product is sold from the

country or countries of origin or export to a third country or countries, or on the constructed value of the product and information on export prices or, where applicable, on the prices at which the product is first resold to an independent buyer in the territory of the Dominican Republic;

(d) information on the trend in the volume of the allegedly dumped imports, the effect of these imports on prices of the like product in the domestic market and the consequent impact of the imports on the domestic industry, as demonstrated by relevant factors and indices having a bearing on the state of the domestic industry.

Paragraph. The applications referred to in this Article shall be signed by the interested party or parties or by those acting on their behalf or representing them and shall be stamped with the seal of the company, enterprise or association.

Article 77. The CDC shall reject an application submitted and terminate the investigation promptly if it has ascertained that there is not sufficient evidence of dumping, injury or threat of injury or of a causal link to justify proceeding with the case; the investigation shall be terminated immediately if it is determined that the margin of dumping is *de minimis* or that the real or potential volume of dumped imports or the injury is negligible.

Paragraph. The dumping margin shall be considered *de minimis* if it is less than 2% expressed as a percentage of the export price. The volume of dumped imports shall normally be considered negligible if it is determined that imports from a particular country account for less than 3% of imports of the like product into the Dominican Republic, unless these imports collectively account for more than 7% of the imports of the like product.

CHAPTER II
DETERMINATION OF DUMPING

Article 78. Subject to the provisions of Article 12 of the Law governing fair comparison, the existence of margins of dumping during the investigation phase shall normally be established on the basis of a comparison of a weighted average normal value with a weighted average of prices of all comparable export transactions or by a comparison of the normal value and export prices on a transaction to transaction basis.

Article 79. A normal value established on a weighted average basis may be compared to prices of individual export transactions if the CDC finds a pattern of export prices that differ significantly among different purchasers, regions or time periods, and if an explanation is provided as to why such differences cannot be taken into account appropriately by the use of a weighted average to weighted average or transaction to transaction comparison.

Article 80. If the product under investigation consists of products which are not physically identical with each other, the margin of dumping shall be estimated according to the type of product, in such a way that the normal value and the export price utilized for each calculation correspond to like goods. In general, types of product shall be defined according to the product classification recognized in the accounting information system of each exporting enterprise.

Paragraph. When the margin of dumping is calculated by type of product, the margin for the product under investigation shall be determined as the weighted average of all the individual margins which have been estimated. The weighting shall be calculated according to the proportion of each type of product relative to the total volume of the product exported during the period of investigation.

Article 81. When, in the judgement of the CDC, the number of product types or the quantity of transactions to be investigated is exceptionally large, the margin of dumping may be determined on the basis of a significant sample. The samples shall be selected in accordance with generally accepted statistical criteria.

CHAPTER III
DETERMINATION OF NORMAL VALUE

Article 82. Subject to the provisions of Article 9 of the Law on determination of normal value, the CDC may determine the normal value on the basis of the comparable price paid or payable, in the ordinary course of trade, for the like product when destined for consumption in the country of origin when the products are simply in transit through the country of export or are not produced or there is no comparable price for them in the country of export. If the CDC applies this Article in order to determine normal value on the basis of the country of origin, it shall be considered that the references to the exporting country in Articles 9, 10 and 13 of the Law mean the country of origin.

Article 83. Subject to the provisions of Article 2.2 of the Anti-Dumping Agreement, costs shall normally be calculated on the basis of records kept by the exporter or producer under investigation, provided that such records are in accordance with the generally accepted accounting principles of the exporting country and reasonably reflect the costs associated with the production and sale of the product under consideration.

Article 84. For the purposes of Articles 10 and 13 of the Law, the amounts for administrative, selling and general costs and for profits shall be based on actual data pertaining to production and sales of the like product in the ordinary course of trade by the exporter or producer under investigation. When such amounts cannot be determined on this basis, they may be determined on the basis of:

(a) the actual amounts incurred and realized by the exporter or producer in question in respect of production and sales in the domestic market of the country of origin of the same general category of products;

(b) the weighted average of the actual amounts incurred and realized by other exporters or producers subject to investigation in respect of production and sales of the like product in the domestic market of the country of origin; or

(c) any other reasonable method, provided that the amount for profit so established shall not exceed the profit normally realized by other exporters or producers on sales of products of the same general category in the domestic market of the country of origin of the like product.

First paragraph. The CDC shall consider all available evidence on the proper allocation of costs, including that which is made available by the exporter or producer in the course of the investigation provided that such allocations have been historically utilized by the exporter or producer, in particular in relation to establishing appropriate amortization and depreciation periods and allowances for capital expenditures and other development costs.

Second paragraph. Unless already reflected in the cost allocations under this Article, the CDC shall adjust costs appropriately for those non-recurring items of cost which benefit future and/or current production or for circumstances in which costs during the period of investigation are affected by start-up operations. The adjustment made for start-up operations shall reflect the costs at the end of the start-up period or, if that period extends beyond the period of investigation, the most recent costs which can reasonably be taken into account by the CDC during the investigation.

Article 85. With regard to production costs, when the materials and components are purchased from suppliers who are related, the CDC shall ascertain that the prices of such transactions are comparable to those of purchase transactions from non-related parties. If the buying price from related parties is lower than the price under purchase transactions with non-related parties, the latter shall replace the former for the purposes of calculating production costs.

Paragraph. When purchases have been made only from related suppliers, the buying prices shall be compared with the prices at which the related suppliers have sold the same materials and components to non-related enterprises. If the aforementioned comparison is not practicable,

the prices under purchase transactions with non-related parties shall be obtained by any other economic method of investigation and on the basis of known facts.

Article 86. The normal value or comparable price referred to in Articles 9 to 15 of the Law shall be determined in accordance with the provisions in those Articles. For products imported from countries deemed by the CDC to be non-market economies, the normal value shall be determined in accordance with Article 15 of the Law.

First paragraph. Substitute country shall mean a third country with a market economy similar to the exporting country. The similarity between the substitute country and the exporting country shall be defined in a reasonable manner, so that the normal value in the exporting country may be estimated on the basis of the domestic price in the substitute country.

Second paragraph. The product used to determine the normal value must originate in the substitute country. If the normal value is determined according to the export price in a substitute country, the price shall apply to a market other than the Dominican Republic. If there is no substitute country with a similar economy in which products like those exported by the centrally planned or non-market economy country are produced, the market in the Dominican Republic itself may be considered as a substitute country.

CHAPTER IV
DETERMINATION OF EXPORT PRICE

Article 87. Taking into account Article 11 of the Law, if there is no export price or where the CDC deems that the export price is unreliable because there is association or a compensatory arrangement between the exporter and the importer or a third party:

(a) 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

(b) if the products are not resold to an independent buyer or are not resold in the condition in which they were imported, on such reasonable basis as the CDC may determine.

Paragraph. When the CDC determines the normal value on the basis of the country of origin, the export price shall be the price actually paid or payable for the product under investigation when sold for export in the country of origin.

CHAPTER V
DETERMINATION OF INJURY AND CAUSAL LINK

Article 88. A determination of injury for the purposes of these Regulations shall be based on positive evidence and involve an objective examination of:

(a) the volume of the dumped imports;

(b) the effect of these imports on prices in the domestic market for like products; and

(c) the consequent impact of these imports on domestic producers of such products.

Article 89. With regard to the volume of the dumped imports, the CDC shall consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in the Dominican Republic.

Article 90. With regard to the effect of the dumped imports on prices in the Dominican Republic, the CDC shall consider:

(a) whether there has been significant price undercutting by the dumped imports as compared with the price of a like domestic product; or

(b) whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

Article 91. Where imports of a like product from more than one country are simultaneously subject to anti-dumping investigations, the CDC may cumulatively assess the effects of such imports on the domestic industry only if it determines that:

(a) the margin of dumping established in relation to the product under investigation for each country is more than *de minimis* and the volume of imports of the product under investigation from each country is not negligible; and

(b) a cumulative assessment of the effects of the imports is appropriate in the light of the conditions of competition between the imports and the conditions of competition between the imports and the domestic like product.

Article 92. The examination of the impact of the dumped imports on the domestic industry concerned shall include an evaluation by the CDC of all relevant economic factors and indices having a bearing on the state of the industry, including:

(a) actual and potential decline in sales, profits, output, market share, productivity, return on investments, or utilization of capacity;

(b) factors affecting domestic prices;

(c) the magnitude of the margin of dumping; and

(d) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital or investments.

Paragraph. This list is not exhaustive, nor can one or several of these factors necessarily give decisive guidance.

Article 93. The CDC shall assess the effect of the dumped imports in relation to the Dominican Republic's production of the like product when available data permit the separate identification of that production on the basis of such criteria as the production process, producers' sales and profits.

Paragraph. If such separate identification of that production is not possible, the CDC shall assess the effects of the dumped imports by examining production of the narrowest group or range of products which includes the like domestic product and for which the necessary information can be provided.

Article 94. The CDC shall base its determination of a threat of material injury on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances which would create a situation in which the *dumping* would cause injury must be clearly foreseen and imminent.

Article 95. When determining a threat of material injury, in addition to the factors identified in this chapter, the CDC shall take into account other factors such as:

(a) a significant rate of increase of dumped imports into the domestic market indicating the likelihood of substantially increased importation;

(b) sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to the Dominican market, taking into account the availability of other export markets to absorb any additional exports;

(c) whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and

(d) inventories of the product under investigation.

First paragraph. No one of these factors by itself can necessarily give decisive guidance but the totality of the factors considered must lead to the conclusion that further dumped exports are imminent and that, unless protective action is taken, material injury will occur.

Second paragraph. With respect to cases where dumped imports threaten to cause injury, the application of anti-dumping measures shall be considered and decided with special care.

Article 96. The CDC shall demonstrate that the dumped imports are, through the effects of dumping, causing injury. The demonstration of a causal link between the dumped imports and the injury to the domestic industry shall be based on an examination of all relevant evidence, including:

(a) the volume and prices of imports of the product concerned not sold at dumping prices;

(b) contraction in demand or changes in the patterns of consumption;

(c) the trade restrictive practices of and competition between the foreign and domestic producers;

(d) developments in technology; and

(e) the export performance and productivity of the domestic industry;

Paragraph. The CDC shall also examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, and the injuries caused by these other factors shall not be attributed to the dumped imports.

Article 97. In cases where the product is normally sold at the retail level in the Dominican Republic, the CDC shall give industrial users of the product under investigation and representative consumers' associations the opportunity to provide any information relevant to the investigation on dumping, injury and the causal link between them. Such information shall be provided in writing.

CHAPTER VI
ANTI-DUMPING DUTIES

Article 98. The CDC shall base its determinations on dumping, injury and a causal link on information corresponding to defined periods, which shall be the periods for which it requests information in the questionnaires.

First paragraph. In dumping cases, the period of investigation shall normally be the one-year period prior to the date of initiation of the investigation for which information is available. The period of investigation may not under any circumstance be less than six (6) months.

Second paragraph. In cases of injury, the period of investigation shall normally be three (3) years. The CDC may, however, select a shorter or longer period if it deems it appropriate in the light of the information available on the domestic industry and the product under investigation.

Article 99. The CDC shall decide whether or not to impose anti-dumping duty in cases where the requirements for imposition have been fulfilled. The CDC shall also assess the amount of the anti-dumping duty at a level equal to or lower than the full margin of dumping if that lower duty is enough to eliminate the injury to the domestic industry.

Article 100. Provisional and definitive anti-dumping duties shall take the form of *ad valorem* or specific duties, and shall be imposed in addition to any other import duties levied on the imported products concerned.

Article 101. Provisional measures or definitive anti-dumping duties shall be applied only to products which enter for consumption after the time when the decision taken by the CDC, under the provisions of the Law and these Regulations, except for those stipulated in Articles 49 and 52 of the Law, enters into force.

First paragraph. The amount of the anti-dumping duty shall be assessed on a prospective basis. In such cases, provision shall be made for a prompt refund, upon request, of any duty paid in excess of the margin of dumping.

Second paragraph. In determining whether and to what extent a reimbursement should be made when the export price is reconstructed pursuant to Article 11 of the Law, the CDC should take account of any change in normal value, any change in costs incurred between importation and resale, and any movement in the resale price which is duly reflected in subsequent selling prices, and should calculate the export price with no deduction for the amount of anti-dumping duties paid when conclusive evidence of the above is provided.

Article 102. When an anti-dumping duty is imposed in respect of any product, such anti-dumping duty shall be collected in the appropriate amounts in each case, on a non-discriminatory basis on imports of such product from all sources found to be dumped and causing injury, except as to imports from those sources from which price undertakings under the terms of Articles 190 ff. of these Regulations have been accepted.

First paragraph. In cases where the investigation involves several suppliers from the same country, and it is impracticable to name them all, the CDC may impose an anti-dumping measure on the exporting country concerned.

Second paragraph. If several suppliers from more than one country are involved, the CDC may name either all the suppliers involved, or, if this is impracticable, all the supplying countries involved.

Article 103. Any anti-dumping duty applied to imports from exporters or producers not included in the examination shall not exceed the highest margin of dumping determined in the investigation.

Paragraph. For the purposes of this Article, the CDC shall not take into account any zero and *de minimis* margins.

Article 104. The CDC may, after initiating an investigation, take such measures as the withholding of appraisement or assessment as may be necessary to collect anti-dumping duties retroactively, as provided for in Article 52 of the Law, once they have sufficient evidence that the conditions set forth in that paragraph are satisfied.

CHAPTER VII
PRELIMINARY DETERMINATION

Article 105. No later than fifteen (15) working days before the scheduled date of the preliminary determination, accredited interested parties may submit written arguments to the CDC concerning any matter relevant to the investigation.

Article 106. The CDC may make a preliminary determination of dumping, injury or threat of injury and a causal link. The preliminary determination shall be based on all information available to the CDC at that time; the parties have a period of ten (10) working days in which to submit their opinion on the preliminary determination. This period shall run as from the time of notification of the preliminary determination.

First paragraph. The CDC shall comply with Articles 45 and 46 of the Law when imposing provisional measures.

Second paragraph. The resolution containing the preliminary determination issued by the CDC shall contain at least the following information:

(a) the name of the applicant;

(b) a description of the imported product under investigation and its tariff classification;

(c) the elements and evidence used to determine dumping, injury or threat of injury and its causal link;

(d) the considerations of fact and of law leading the CDC to initiate an investigation or to consider a preliminary determination; and

(e) legal arguments, data, facts or circumstances substantiating and justifying the resolution in question.

Article 107. The CDC shall issue a public notification of all preliminary determinations. The notification shall contain the preliminary determination of dumping and injury, with reference to the questions of fact and of law on which the acceptance or rejection of the arguments is based. Taking into account the provisions on protection of confidential information, such notifications or reports shall indicate, *inter alia*:

(a) the names of the suppliers, or when this is impractical, the supplying countries involved;

(b) a description of the product that suffices for customs purposes, including the tariff heading in the Harmonized System;

(c) the margins of dumping established and a full explanation of the reasons for using the methodology applied in determining and comparing the export price and the normal value;

(d) considerations relating to the determination of injury;

(e) the principal grounds substantiating the determination; and,

(f) the amount of the provisional measures to be applied and the reasons why such provisional measures are necessary in order to prevent injury being caused during the investigation.

Article 108. The Directorate-General of Customs shall levy provisional anti-dumping duties in the amount determined in each case and without discrimination in respect of imports of the product declared dumped and the cause of injury, irrespective of their origin, with the exception of imports from sources regarding which price undertaking have been agreed, in accordance with the provisions of the Law and these Regulations.

Article 109. The CDC shall authorize the refund of duties paid in excess of the dumping margin, where applicable, in accordance with Article 55 of the Law.

CHAPTER VIII
DEFINITIVE DETERMINATION

Article 110. The CDC shall adopt a definitive determination of dumping, injury or threat of injury and the causal link based on all the information obtained by the CDC in the course of the investigation and disclosed by the accredited interested parties, subject to the provisions on confidentiality.

Article 111. The CDC shall issue a public notification of the affirmative or negative definitive determination. The notification shall contain all relevant information on the questions of fact and of law on which the determination is based, taking due account of the provisions on protection of confidential information, *inter alia*, the following:

(a) the names of the known exporters and producers of the product under investigation;

(b) a description of the product under investigation that suffices for customs purposes, including the actual tariff classification in the Dominican Republic;

(c) the dumping margin that has been found to exist, where applicable, and the basis for the determination, including a description of the methodology used to determine the normal value and the export price and any adjustments that had to be made when comparing them;

(d) the factors that led to the determination of injury and the causal link, including information on factors other than the dumped imports that have been taken into account;

(e) any other reasons on which the definitive determination is based;

(f) the reasons for accepting or rejecting the relevant arguments or claims put forward by the exporters and importers;

(g) the amount of the anti-dumping duties to be imposed, including considerations relating to the examination; and

(h) whether definitive anti-dumping duties should be levied on the imports to which provisional measures had been applied and the grounds for the decision to do so.

Article 112. The domestic industry may withdraw the application referred to in the Law at any time during the procedure. The CDC shall therefore take the following actions:

(a) if the application is withdrawn prior to publication of the resolution initiating the investigation, the CDC shall declare the investigation to be inadmissible by reason of withdrawal and shall publish the corresponding notification in a national newspaper and on the CDC website;

(b) if the application is withdrawn after publication of the resolution initiating the investigation, the CDC shall terminate the investigation and shall publish the corresponding notification in a national newspaper and on the CDC website;

(c) if some domestic producers wish to withdraw from the application whereas other producers do not wish to do so, the CDC may pursue the investigation if the latter still represent a significant proportion of the domestic industry.

Article 113. The CDC may levy definitive anti-dumping duties on products which were entered for consumption not more than ninety (90) days prior to the date of application of the provisional duties solely in the circumstances covered by Article 52 of the Law.

Article 114. If the definitive anti-dumping duty is higher than the provisional duty paid or payable, or the amount estimated for the purpose of the security, the difference shall not be collected. If the definitive duty is lower than the provisional duty paid or payable, or the amount

estimated for the purpose of the security, the difference shall be reimbursed or the duty recalculated, as the case may be.

Article 115. Except as provided in Article 49 of the Law, where a determination of threat of injury or material retardation is made (but no injury has yet occurred) a definitive anti-dumping duty may be imposed only from the date of the determination of threat of injury or material retardation, and any cash deposit made during the period of the application of provisional measures shall be refunded and any bonds released in an expeditious manner.

Article 116. In accordance with the time periods established in Article 54 of the Law, anti-dumping duties shall remain in force as long as and to the extent necessary to counteract dumping which is causing injury, or, at the latest, five (5) years as from the date of their imposition.

TITLE V
SUBSIDIES

CHAPTER I
GENERAL PROVISIONS

Article 117. For the purposes of Article 16 of the Law, a subsidy shall be deemed to exist if there is a financial contribution by a government or any public body within the territory of a country, or if there is any form of income or price support in the sense of Article XVI of the GATT and a benefit is thereby conferred.

Paragraph. A financial contribution by a government or any public body within the territory of a country shall be deemed to exist when:

(a) a government practice involves a direct transfer of funds (e.g. grants, loans, and equity infusions), or potential direct transfers of funds or liabilities;

(b) government revenue that is otherwise due is foregone or not collected, e.g. fiscal incentives such as tax credits;

(c) a government provides goods or services other than general infrastructure, or purchases goods;

(d) a government makes payments to a funding mechanism, or entrusts or directs a private body to carry out one or more of the type of functions illustrated in (a) to (c) above which would normally be vested in the government and the practice, in no real sense, differs from practices normally followed by governments.

Article 118. Pursuant to paragraph II(f) of Article 16 of the Law, the exemption of an exported product from duties or taxes borne by the like product when destined for domestic consumption, or the remission of such duties or taxes in amounts not in excess of those which have accrued, shall not be deemed to be a subsidy.

Paragraph. The CDC shall pay special attention to the provisions of Annexes II and III of the WTO Agreement on Subsidies and Countervailing Measures.

Article 119. A subsidy shall be countervailable only if it is specific within the meaning of these Regulations.

Article 120. In order to determine whether a subsidy is specific to an enterprise or industry the following principles shall apply:

(a) where the granting authority, or the legislation pursuant to which the granting authority operates, explicitly limits access to a subsidy to certain enterprises;

(b) where the granting authority, or the legislation pursuant to which the granting authority operates, establishes objective criteria or conditions governing the eligibility

for, and the amount of, a subsidy, specificity shall not exist, provided that the eligibility is automatic and that such criteria and conditions are strictly adhered to;

(c) if, notwithstanding any appearance of non-specificity resulting from the application of the principles laid down in this Article, there are reasons to believe that the subsidy may in fact be specific, other factors may be considered, such as the use of a subsidy programme by a limited number of certain enterprises, predominant use by certain enterprises, the granting of disproportionately large amounts of subsidy to certain enterprises, and the manner in which discretion has been exercised by the granting authority in the decision to grant a subsidy.

First paragraph. The expression "objective criteria or conditions" means criteria or conditions which are neutral, which do not favour certain enterprises over others, and which are economic in nature and horizontal in application.

Second paragraph. A subsidy which is limited to certain enterprises located within a designated geographical region within the jurisdiction of the granting authority shall also be deemed to be specific. The setting or change of generally applicable tax rates by all levels of government entitled to do so shall not be deemed to be a specific subsidy for the purposes of these Regulations.

Article 121. Any determination of specificity shall be clearly substantiated on the basis of positive evidence.

Article 122. The following subsidies shall be deemed to be prohibited:

(a) subsidies contingent, in law or in fact, whether solely or as one of several other conditions, upon export performance;

(1) Subsidies shall be considered to be contingent in fact upon export performance when the facts demonstrate that the granting of a subsidy, without having been made legally contingent upon export performance, is in fact tied to actual or anticipated exportation or export earnings.

(2) The mere fact that a subsidy is accorded to enterprises which export shall not constitute sufficient reason for the subsidy to be considered an export subsidy within the meaning of this provision.

(b) subsidies contingent, in law or in fact, whether solely or as one of several other conditions, upon the use of domestic over imported goods.

Article 123. Under the provisions of the Agreement on Subsidies and Countervailing Measures, in the case of subsidies classified as prohibited, the CDC, through the National Coordinating Authority in WTO Dispute Settlement Processes, may initiate a dispute settlement procedure in the WTO.

Article 124. Where the recipient is a state-owned enterprise which is subsequently privatized, it shall be presumed that a privatization at arm's length and for fair market value extinguishes the benefit, except if it can be demonstrated, on the basis of positive evidence, that a benefit persists.

CHAPTER II
CALCULATION OF SUBSIDIES

Article 125. In calculating the total rate of subsidization of the investigated product for a given foreign producer or exporter, a rate of subsidization of that product for the producer or exporter shall be calculated for each investigated subsidy or subsidy programme, in accordance with the following Article. The sum of the resulting per subsidy or per programme rates shall be the total rate of subsidization of the product for that producer or exporter.

Article 126. To calculate the rate of subsidization of the investigated product for a foreign producer or exporter from a given investigated subsidy or subsidy programmes, the CDC shall determine:

(a) first, the total subsidy amount(s) received by that producer or exporter from the subsidy or programme in question, and the date(s) of receipt thereof, in accordance with the provisions of this Chapter;

(b) second, the portion of the total subsidy amount that is attributable to the subsidy period of investigation.

(c) third, the CDC shall determine the total value during the subsidy period of investigation (POI) of the relevant sales of the foreign producer or exporter to which the subsidy POI amount can be attributed; and

(d) fourth, the CDC shall calculate the *ad valorem* rate of subsidization from the subsidy or programme by dividing the subsidy POI amount by the relevant sales value identified in subparagraph (c) and multiplying the result by one hundred (100).

Article 127. The total subsidy amount, calculated in terms of the benefit to the recipient, or the benefit conferred on the latter shall be determined by the CDC in accordance with Article 17 of the Law.

Article 128. In determining the total subsidy amount received by the recipient foreign producer or exporter under an investigated subsidy or programme, or the total *ad valorem* subsidization rate of the product under investigation for that recipient, the following elements shall be deducted, as appropriate:

(a) any application fee or other costs necessarily incurred in order to qualify for or obtain the subsidy; and

(b) export taxes, duties or other charges levied on the export of the product to the Dominican Republic specifically intended to offset the subsidy or subsidies.

CHAPTER III
DETERMINATION OF THE SUBSIDY AMOUNT ATTRIBUTABLE TO THE SUBSIDY POI

Article 129. The subsidy amount attributable to the subsidy POI from an investigated subsidy or subsidy programme normally shall be the total subsidy amount received by the recipient from that subsidy or subsidy programme during that period.

Article 130. Notwithstanding the foregoing article, where the total subsidy amounts are allocated over a multi-year period, the subsidy POI amount shall be the portion of the total subsidy amount of benefits allocated to that period.

Article 131. Where the CDC finds that a particular subsidy has one or more of the characteristics referred to, the subsidy amount may be allocated over the average useful life of the recipient's operational assets.

Paragraph. Subsidies to be so allocated include subsidies that:

(a) have been provided for the purpose of purchasing fixed assets;

(b) are non-recurring;

(c) are oriented toward future production; and

(d) are transferred forward in the recipient's accounting records.

Article 132. The CDC shall determine the subsidy amount to be attributed to the subsidy POI from an allocable subsidy by dividing the total subsidy amount by the number of years of average useful life of the recipient's operational assets, (allocation period).

Paragraph. Except as otherwise provided, the date on which the subsidy POI amount from an allocable subsidy shall be deemed to have been received shall be the anniversary date of the original date of receipt of the subsidy.

CHAPTER IV
SALES TO WHICH THE SUBSIDY POI AMOUNT IS ATTRIBUTABLE

Article 133. The sales to which the POI subsidy amount shall be attributed are the recipient's total sales during that period, unless the CDC is satisfied on the basis of positive evidence that a subsidy amount received by a foreign producer or exporter is tied to or designated to benefit a particular portion of the recipient's products or sales, or to production or sales of a product or particular products for a market or particular markets or others.

Article 134. Where the CDC is satisfied on the basis of positive evidence that a subsidy amount received by a foreign producer or exporter is tied to or designated to benefit a particular portion of the recipient's production or sales, the CDC shall attribute the subsidy amount to the value of the relevant sales of the recipient during the subsidy POI. In identifying such relevant sales the CDC shall apply the following guidelines:

(a) in the case of subsidies tied to the recipient's overall exports or export efforts, the relevant sales for attribution of the subsidy amount shall be the recipient's total export sales value during the subsidy POI;

(b) in the case of subsidies tied to production or sale of a particular product or products, the relevant sales for attribution of the subsidy amount shall be the recipient's total sales value of that/those product(s) during the subsidy POI;

(c) in the case of subsidies tied to a particular market or markets, the relevant sales for attribution of the subsidy amount shall be the recipient's total sales value to that/those market(s) during the subsidy POI;

(d) in the case of subsidies tied exclusively to production and/or sale of products, or for markets, other than exports of the investigated product to the Dominican Republic, no subsidy amount shall be attributed to those exports, that is, no amount of such subsidies shall be countervailed.

CHAPTER V
DETERMINATION OF THE TOTAL RATE OF SUBSIDIZATION OF THE INVESTIGATED PRODUCT

Article 135. The CDC shall calculate the *ad valorem* rate of subsidization for a foreign producer or exporter of the investigated product, from a given subsidy or subsidy programme, by dividing the subsidy POI amount by the appropriate value of sales, determined as established, and multiplying the result by one hundred (100).

Paragraph. The CDC shall calculate the total *ad valorem* subsidy rate for a foreign producer or exporter of the investigated product by summing the *ad valorem* subsidy rates calculated for that producer or exporter for each of the subsidies or subsidy programmes investigated.

Article 136. In the case of allocable subsidies in high inflation countries, the CDC may adjust the *ad valorem* subsidy rate for inflation. If such an adjustment is made, it shall be performed by converting both the total subsidy amount and the value of sales for the POI into the same non-inflationary currency using the following exchange rates: for the total subsidy amount, the exchange rate shall be the rate prevailing on the date when the subsidy is deemed to have been received, and for the value of sales for the POI, the exchange rate shall be the average rate for the subsidy POI. In cases where there are substantial variations in sales volume over the POI, this average rate may be weighted by the sales volume in appropriate sub-periods of the POI.

CHAPTER VI
CALCULATION METHODOLOGY FOR CERTAIN FORMS OF SUBSIDIES

Article 137. In the case of a grant, no portion of the value of which is repaid to the government, the total subsidy amount shall be the amount of the grant, determined in accordance with the provisions of these Regulations. The date of receipt of the subsidy is deemed to be the date of receipt of the grant.

Paragraph. Small-value grants received during the subsidy POI shall be attributed in full to the year of receipt.

Article 138. A loan by a government shall only be considered as conferring a benefit to the extent that there is a difference between the amount that the recipient pays in interest and any other charges or costs on the government loan, and the amount that the recipient would have paid on a comparable commercial loan which it did or could have obtained on the market. In this case the benefit shall be the difference between these two amounts.

First paragraph. In the case of deferral of principal or interest, the amount of the deferred principal and interest shall be considered as an interest-free loan.

Second paragraph. If all or part of a loan found to confer a benefit is forgiven or defaulted on, the amount not repaid shall be treated as a grant received on the date of default.

Third paragraph. When calculating the benefit to the recipient, account shall be taken of the type of loan, i.e. short or long term.

Article 139. In the case of an assumption or forgiveness by the government of a firm's debt obligation, a benefit exists equal to the amount of principal and/or interest that the government has assumed or forgiven. If the government receives shares in a firm in return for eliminating or reducing the firm's debt obligations, the CDC shall determine the existence of a benefit in accordance with the provisions of these Regulations.

Paragraph. The CDC shall consider the date of receipt of the subsidy to be the date on which the debt or interest was assumed or forgiven.

Article 140. Reimbursable grants and contingent liability loans (loans that are not payable until the occurrence of a specified future event), shall be treated as a series of short-term loans during the period before any repayment is made. The methodology used for calculating the amount of the subsidy shall be that described for short-term loans. In the event of a determination that such a grant or loan will not be repaid, the outstanding balance of the grant or loan as of that time shall be treated as a grant received on the date on which the obligation to repay was extinguished.

Article 141. A loan guarantee by a government shall only be considered as conferring a benefit to the extent that there is a difference between the amount that the recipient of the guarantee pays in interest and any other charges or costs on the guaranteed loan and the amount that the firm would pay on a comparable commercial loan absent the government guarantee. In this case the benefit shall be the difference between these two amounts adjusted for any differences in fees.

Article 142. In the case of a loan guarantee, the CDC shall consider the subsidy to be received on the date(s) on which the recipient makes loan payment(s), or in the absence of such payment(s), on the dates on which payment(s) would have been made on the comparator commercial loan. The benefits from loan guarantees attributable to the subsidy POI shall be determined depending on the maturity date of the guaranteed loan.

Article 143. Government provision of equity capital shall only be considered as conferring a benefit to the extent that the government's investment decision can be regarded as inconsistent with the usual investment practice (including for the provision of risk capital) of private investors in the territory of the country where the equity infusion is made.

Article 144. The CDC shall consider an equity infusion to be inconsistent with usual investment practice if the price paid by the government for newly issued equity shares is greater than the

price paid by private investors for the same (or a similar) form of shares, at that time. The amount of the subsidy shall be deemed to be the difference between the price per share paid by the government and the price per share paid by the private investor, multiplied by the number of shares purchased by the government.

Article 145. The exemption, remission or forgiveness of direct taxes constitutes a subsidy in the amount of the difference between the amount of taxes exempted, remitted or not collected and the amount that the firm otherwise would have paid absent the exemption, remission or forgiveness. The CDC shall consider the date of receipt of the subsidy to be the date on which the taxes exempted, rebated or forgiven otherwise would have been due.

Article 146. In the case of a deferral of taxes, direct taxes, indirect taxes, import duties and charges, and similar fiscal charges, the CDC shall consider such tax deferral as a government loan in the amount of the taxes deferred, as appropriate, depending on whether the deferral is for less than one year or for one year or more, short or long term. Tax deferral shall not be treated as conferring a subsidy if the government collects an appropriate commercial rate of interest on the deferred amount.

Article 147. In the case of a full or partial exemption from indirect taxes or import charges, the CDC shall determine, subject to the provisions of the Law, the amount of any resulting subsidy as the difference between the amount of indirect taxes or import charges paid by a firm and the amount that would otherwise have been paid by the firm absent the exemption. The CDC shall consider the date of receipt of the subsidy to be the date on which the firm would have had to pay the exempted tax or charge. The CDC shall expense the amount of the subsidy.

Article 148. In the case of a full or partial rebate or remission of indirect taxes or import charges, the CDC shall determine the amount of any resulting subsidy as the net amount of the taxes or charges paid after the rebate or remission, compared with the amount that otherwise would have been paid absent the rebate or remission. The CDC shall consider the date of receipt of the subsidy to be the date of receipt of the rebate or remission, and shall expense the amount of the subsidy.

Article 149. The provision of goods or services by a government shall only be considered as conferring a benefit to the extent that the provision is made for less than adequate remuneration. The adequacy of remuneration in the country of provision shall be determined in relation to prevailing market conditions for the good or service in question in the country of provision, including price, quality, availability, marketability, transportation and other conditions of purchase or sale.

Article 150. When determining the adequacy of remuneration, the CDC shall first seek to identify a price for the good or service in actual market transactions by private suppliers in the country of their provision. If such a price cannot be identified, the CDC may determine the adequacy of remuneration on the basis of whether the price paid to the government is sufficient to cover total costs, including selling, general and administrative expenses, to provide the goods or services supplied, plus a reasonable amount for profit, or such other reasonable basis as may be determined.

Article 151. The amount of the subsidy shall be the difference between the price paid by the firm for the government-provided goods or services and the adequate remuneration determined by the CDC. The CDC shall consider the date of receipt of the subsidy to be the date on which the firm pays or, in the absence of payment, would have had to pay for the government-provided goods or services.

Article 152. The purchase of goods by a government shall only be considered as conferring a benefit to the extent that the purchase is made for more than adequate remuneration. The adequacy of remuneration shall be determined in relation to prevailing market conditions for the good in question in the country of its purchase, including price, quality, availability, marketability, transportation and other conditions of purchase or sale.

Article 153. When determining the adequacy of remuneration, the CDC shall first seek to identify a price for the good charged by the investigated firm in actual market sales to private purchasers in the country of purchase. If such a price cannot be determined, the CDC may determine

the adequacy of remuneration by examining whether other firms in that country have sold the same good on comparable terms and conditions to private purchasers. In cases where no such comparator price is available, the adequacy of remuneration shall be determined on the basis of whether the price paid by the government is sufficient to cover the investigated firm's total cost of the good, including selling, general and administrative expenses, plus a reasonable amount for profit.

Article 154. The amount of the subsidy shall be the difference between the price paid by the government for the goods purchased and the adequate remuneration determined by the CDC. The CDC shall consider date of receipt of the subsidy to be the date on which government pays for the goods purchased, and shall expense the amount of the subsidy.

Article 155. In the case of government assistance to workers, a benefit shall be deemed to exist to the extent that the assistance relieves the employer firm of an obligation that it otherwise would incur. The CDC shall consider the date of receipt of the subsidy to be the date on which the government payment is made that relieves the firm of the relevant obligation.

Article 156. For the purposes of these Regulations, the term "prior-stage cumulative indirect taxes" shall mean multi-staged taxes levied on goods or services used directly or indirectly in making a product, where there is no mechanism for subsequent crediting of the tax if the goods or services subject to tax at one stage of production of the product are used in a succeeding stage of production thereof.

Article 157. For the purposes of these Regulations, the term "inputs consumed in the production process" shall mean inputs physically incorporated, energy, fuels and oil used in the production process, and catalysts which are consumed in the course of their use to obtain a product.

Article 158. In the case of the exemption or remission of indirect taxes, other than prior-stage cumulative indirect taxes, in respect of the production and distribution of an exported product, the CDC shall consider that a subsidy exists only to the extent that it determines that the amount of the exemption or remission exceeds the amount levied with respect to the production and distribution of the like product when sold for domestic consumption.

Article 159. In the case of the exemption or remission of prior-stage cumulative indirect taxes in respect of an exported product, the CDC shall consider that a subsidy exists only to the extent that it determines that the amount of the exemption or remission exceeds the amount of such taxes levied on inputs consumed in the production process, making normal allowance for waste.

Article 160. The CDC shall consider the date of receipt of the subsidy to be the date on which the excessive amount was remitted or the exempted taxes were otherwise due. The CDC shall expense the amount of the subsidy.

Article 161. In the case of the remission or drawback of import charges in respect of an exported product, the CDC shall consider that a subsidy exists only to the extent that it determines that the amount of the remission or drawback exceeds the amount of import charges on imported inputs that are consumed in the production process, making normal allowance for waste.

Paragraph. In the case of remission or drawback of import charges in respect of inputs consumed in the production of an exported product, the CDC shall consider the date of receipt of the subsidy to be the date on which the excessive amount was remitted or drawn back. The CDC shall expense the amount of the subsidy.

Article 162. The provisions of this Article shall also apply to cases of substitution drawback, where a firm uses a quantity of home market inputs equal to, and having the same quality and characteristics as, the imported inputs as a substitute for them. In such a case the CDC shall only deem that a subsidy exists when:

(a) the import and the corresponding export operations did not both take place within a reasonable time period, of not more than two years; or

(b) the amount drawn back exceeds the amount of the import charges levied initially on the imported inputs for which drawback is claimed.

CHAPTER VII
APPLICATION FOR SUBSIDY INVESTIGATIONS

Article 163. In addition to being submitted in writing and fulfilling the requirements set out in Articles 32 and 33 of the Law, the application for the initiation of an investigation shall be filed together with the forms sent out by the CDC. The application shall contain such information as is reasonably available to the applicant on the following:

(a) the name, address and telephone number of the applicant;

(b) the identity of the domestic industry by or on behalf of which the application is being made, including the names, addresses and telephone numbers of all other known producers in the domestic industry;

(c) information regarding to the degree of domestic industry support for the application, including:

(1) the volume and total value of domestic industry production of the domestic like product; and

(2) the volume and value of the domestic like product produced by the applicant and by each domestic producer identified;

(d) a complete description of the product to be investigated and the like product manufactured by the domestic industry, including the technical characteristics and uses of the product and its tariff classification number;

(e) the country in which the allegedly subsidized product is manufactured or produced and, if it is imported from a country other than the country of manufacture or production, the intermediate country from which the product is imported;

(f) the name and address of each person the applicant believes sells the allegedly subsidized product and the proportion of total exports to the Dominican Republic which that person accounted for during the most recent twelve (12) month period, and a list of persons known to import the product in question;

(g) evidence with regard to the existence, amount and nature of the subsidy in question;

(h) evidence that alleged injury to a domestic industry is caused by subsidized imports through the effects of the subsidies; this evidence includes information on the evolution of the volume of the allegedly subsidized imports, the effect of these imports on prices of the domestic like product in the Dominican market and the consequent impact of the imports on the domestic industry, as demonstrated by relevant factors and indices having a bearing on the state of the domestic industry.

Paragraph. Applications under this Article shall be signed by the interested party or parties, or by persons acting on their behalf or representing them, and shall bear the official stamp of the company, enterprise or association in question.

Article 164. The CDC shall not initiate an investigation with respect to a given allegedly subsidized product if, from information reasonably available to the CDC, it determines that:

(a) the rate of subsidization is *de minimis*, i.e. less than 1% *ad valorem*, or in the case of subsidies provided by a developing country, does not exceed 2% *ad valorem.* For developing countries covered by Annex VII of the Agreement on Subsidies and Countervailing Measures, an *ad valorem* rate of 3% shall apply;

(b) the volume of subsidized imports, actual or potential is negligible where the allegedly subsidized product is being imported from one or more developing countries, if the volume of the allegedly subsidized imports represents less than 4% of the total imports of the domestic like product, unless imports from developing countries whose individual shares of total imports represent less than 4% collectively account for more than 9% of the total imports of the domestic like product

Paragraph. If, during the investigation process, the CDC finds that the amount of the subsidy is *de minimis*, or that the volume of subsidized imports, actual or potential, is negligible, the investigation shall be terminated immediately.

Article 165. In addition to the provision of the paragraph of Article 164, an investigation shall be terminated promptly when the CDC is satisfied that there is not sufficient evidence of subsidization, injury or causal link to justify proceeding with the case.

CHAPTER VIII
INJURY AND CAUSAL LINK

Article 166. A determination of injury for the purposes of these Regulations shall be based on positive evidence and involve an objective examination of:

(a) the volume of the subsidized imports;

(b) the effect of the subsidized imports on prices in the domestic market for like products; and

(c) the consequent impact of these imports on domestic producers of such products.

Article 167. With regard to the volume of the subsidized imports, the CDC shall consider whether there has been a significant increase in subsidized imports, either in absolute terms or relative to production or consumption in the Dominican Republic.

Article 168. With regard to the effect of the subsidized imports on market prices in the Dominican Republic, the CDC shall consider:

(a) whether there has been a significant price undercutting by the subsidized imports as compared with the price of the domestic like product; or;

(b) whether the effect of such imports is otherwise to depress prices to a significant degree; or

(c) to prevent price increases, which otherwise would have occurred, to a significant degree.

Article 169. Where imports of a like product from more than one country are simultaneously subject to countervailing measures investigations, the CDC may cumulatively assess the effects of such imports on the domestic industry only if it determines that:

(a) the rate of subsidization established in relation to the investigated product from each country is more than *de minimis* and the volume of the investigated product imported from each country is not negligible;

(b) a cumulative assessment of the effects of the imports is appropriate in the light of the conditions of competition between the imports and the conditions of competition between the imports and the domestic like product.

Article 170. In examining the impact of the subsidized imports on the domestic industry concerned, the CDC shall conduct an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including:

(a) actual and potential decline in sales, profits, output, market share, productivity, return on investments, or utilization of capacity;

(b) factors affecting domestic prices;

(c) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital or investments; and

(d) in the case of agriculture, whether there has been an increased burden on government support programmes.

Paragraph. This list is not exhaustive, nor can one or several of these factors necessarily give decisive guidance.

Article 171. The CDC shall assess the effect of the subsidized imports in relation to domestic production of the like product when available data permit the separate identification of that production on the basis of such criteria as the production process, and producers' sales and profits.

Paragraph. If such separate identification of that production is not possible, the CDC shall assess the effects of the subsidized imports by an examination of the production of the narrowest group or range of products which includes the domestic like product and for which the necessary information can be provided.

Article 172. The CDC shall base its determination of a threat of material injury on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances which would create a situation in which the subsidy would cause injury must be clearly foreseen and imminent.

Article 173. When determining a threat of material injury, in addition to the factors previously identified in these Regulations, the CDC shall take into account other factors such as:

(a) the nature of the subsidy or subsidies in question and the trade effects likely to arise therefrom;

(b) a significant rate of increase of subsidized imports into the Dominican market indicating the likelihood of substantially increased imports;

(c) sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased subsidized exports to the Dominican market, taking into account the availability of other export markets to absorb any additional exports;

(d) whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices in the Dominican Republic, and would likely increase demand for further imports; and

(e) inventories of the investigated product.

First paragraph. No one of these factors by itself can necessarily give decisive guidance but the totality of the factors considered must lead to the conclusion that further subsidized exports are imminent and that, unless protective action is taken, material injury will occur.

Second paragraph. With respect to cases where subsidized imports threaten to cause injury, the CDC shall consider and decide the application of countervailing measures with special care.

Article 174. The CDC shall demonstrate that the subsidized imports are, through the effects of subsidies, causing injury. The demonstration of a causal link between the subsidized imports and the injury to the domestic industry shall be based on an examination of all relevant evidence, including:

(a) the volume and prices of non-subsidized imports of the product in question;

(b) contraction in demand or changes in the patterns of consumption;

(c) the trade restrictive practices of and competition between the foreign and domestic producers;

(d) developments in technology; and

(e) the export performance and productivity of the domestic industry;

Paragraph. The CDC shall also examine any known factors other than the subsidized imports which at the same time are injuring the domestic industry, and the injuries caused by these other factors shall not be attributed to the subsidized imports.

CHAPTER IX
COUNTERVAILING DUTIES

Article 175. The CDC shall base its assessments of subsidization, injury and causal link on data relating to defined periods, which shall be the periods for which information is requested in questionnaires:

(a) the investigation period for the determination of subsidization normally shall be the most recently completed calendar or fiscal year, as relevant, preceding the initiation of the investigation; and

(b) the investigation period for injury shall normally be three (3) years. However, the CDC may select a shorter or longer period if it so deems appropriate in the light of available information regarding the domestic industry and the investigated product.

Paragraph. Where different periods from those specified as the norms in subparagraphs (a) and (b) are used, the CDC shall include in its report on the investigation an explanation of the reasons therefor.

Article 176. The amount of the countervailing duty shall not exceed the rate of subsidization as established pursuant to these Regulations. The countervailing duty may be lower than the amount of the subsidy if that lower duty would be adequate to remove the injury to the domestic industry.

Article 177. Countervailing duties shall take the form of *ad valorem* or specific duties and shall be additional to any other import duties levied in connection with the imported products in question.

Paragraph. Provisional measures may take the form of provisional countervailing duties guaranteed by cash deposits or bonds equal to the amount of the provisionally calculated amount of subsidization.

Article 178. In the interest of the Dominican Republic, the CDC may suspend the application of measures imposed pursuant to these Regulations for a specified period. The CDC may suspend measures only where market conditions have temporarily changed and the CDC determines that the application of the measures would not be in the interest of the Dominican Republic, and provided that the domestic industry has been given an opportunity to comment.

Article 179. A definitive countervailing duty may be collected on products which were entered for consumption not more than ninety (90) days prior to the date of application of provisional measures in critical circumstances where, for the subsidized product in question, the CDC finds that injury which is difficult to repair is caused by massive imports, in a relatively short period, of an investigated product benefiting from subsidies paid or bestowed inconsistently with the

provisions of the GATT and of the WTO Agreement on Subsidies and Countervailing Measures, and where the CDC deems it necessary, in order to preclude the recurrence of such injury, to assess countervailing duties retroactively on those imports.

CHAPTER X
PRELIMINARY DETERMINATION

Article 180. No later than fifteen (15) days before the scheduled date of the preliminary determination, accredited interested parties may submit written arguments to the CDC concerning any matter relevant to the investigation.

Article 181. Pursuant to Article 45 of the Law, the CDC may make a preliminary determination of subsidization, injury or the threat of injury and causal link. The preliminary determination shall be based on all information available to the CDC at that time. The parties shall have a period of ten (10) days in which to submit their opinion on the preliminary determination. The said period shall run from the time the parties acknowledge receipt of the preliminary determination.

Article 182. The CDC may impose provisional measures if it makes an affirmative preliminary determination of subsidization, injury, and causal link, and determines that provisional measures are necessary to prevent injury being caused during the investigation. A negative preliminary determination of subsidization shall not automatically terminate the investigation, but no provisional measures shall be imposed in such a case. The CDC shall take account of Paragraphs I and II of Article 45 of the Law for the purposes of imposing provisional measures.

Article 183. The CDC shall issue a public notice of the preliminary determination, whether affirmative or negative, as envisaged in Article 36, Paragraph I of the Law. The notice of the preliminary determination shall set forth in sufficient detail the investigations made and the conclusions reached on all issues of fact and law considered material, due regard being given to the protection of confidential information. The notice shall also contain the following:

(a) the names of the known exporters and producers of the investigated product or, when this is impractical, the supplying countries involved;

(b) a description of the investigated product, including the tariff classification in force;

(c) the amount of subsidy established and the basis on which the existence of a subsidy has been determined;

(d) the factors that have led to the determinations of injury and causal link, including information on factors other than subsidized imports that have been taken into account;

(e) the amount of any provisional measures to be applied and the reasons why such provisional measures are necessary to prevent injury caused during the investigation;

(f) an explanation of the investigation period for the subsidy or injury; and

(g) the main reasons underlying the determination.

CHAPTER XI
THE DEFINITIVE COUNTERVAILING DUTY

Article 184. The CDC shall issue a public notice of the final determination, whether affirmative or negative. The notice of final determination shall include all relevant information on the matters of fact and law and reasons that have led to the determination, regard being given to the protection of confidential information, including:

(a) the names of the known exporters and producers of the investigated product;

(b) a description of the investigated product that is sufficient for customs purposes, including the current tariff classification;

(c) an explanation of the investigation period for the subsidy or injury;

(d) the amount of subsidy established and the basis on which the existence of a subsidy has been determined;

(e) the factors that have led to the determination of injury and causal link, including information on factors other than subsidized imports that have been taken into account;

(f) any other reasons leading to the final determination;

(g) the reasons for the acceptance or rejection of relevant arguments or claims made by exporters and importers;

(h) the amount of any countervailing duties to be imposed, including any considerations relevant to the CDC's examination of the Dominican Republic's interest and of whether a duty less than the amount of the subsidy would be adequate to remove the injury to the domestic industry; and,

(i) if final countervailing duties are to be collected with regard to the imports to which provisional measures were applied, the reasons for the decision to do so.

Article 185. Where the CDC makes a final determination of injury but not of a threat thereof or of material retardation of the establishment of an industry or, in the case of a final determination of a threat of injury, where the CDC determines that the effect of the subsidized imports would, in the absence of the provisional measures, have led to a determination of injury, definitive countervailing duties may be levied retroactively for the period for which provisional measures, if any, have been applied.

Paragraph. If the definitive countervailing duty is higher than the amount estimated for the purpose of the security, the difference shall not be collected. If the definitive duty is lower than the amount estimated for the purpose of the security, the difference shall be released in the case of a bond, or reimbursed, with an appropriate amount for interest, in the case of a cash deposit.

Article 186. Except as provided in the preceding Article, where the CDC makes a determination of threat of injury or material retardation but no injury has yet occurred, a definitive countervailing duty may be imposed only from the date of the determination of threat of injury or material retardation.

Article 187. Where the CDC makes a negative final determination or terminates the investigation without the imposition of definitive measures, any security provided during the period of application of the provisional measures shall be released.

Article 188. A countervailing duty shall remain in force only as long as and to the extent necessary to counteract subsidization which is causing injury.

Article 189. Any definitive countervailing duty shall be terminated on a date not later than five (5) years from its imposition or from the date of the most recent review, if that review has covered both subsidization and injury.

TITLE VI
PROVISIONS APPLICABLE TO DUMPING AND SUBSIDY INVESTIGATIONS

CHAPTER I
PRICE UNDERTAKINGS

Article 190. For the purposes of Article 43 of the Law, the CDC shall neither seek nor accept price undertakings unless the CDC has made a preliminary affirmative determination of dumping or subsidization and of injury caused by that dumping or subsidization.

Article 191. Undertakings offered need not be accepted if the CDC considers their acceptance impractical because of the high number of exporters, or for other reasons such as general policy considerations.

Paragraph. Should the case arise and where practicable, the CDC shall explain to the exporter the reasons which have led it to consider acceptance of an undertaking as inappropriate, and shall, to the extent possible, give the exporter an opportunity to make comments thereon.

Article 192. If an undertaking is accepted, the CDC shall nevertheless complete the investigation of dumping or subsidization and injury if the exporting country so desires or the CDC so decides. In this case, if the CDC makes a negative determination of dumping or subsidization, as appropriate, or of injury, the undertaking shall automatically lapse, except in cases where such a determination is due in large part to the existence of such an undertaking.

Paragraph. In such cases the CDC may require that an undertaking be maintained for a reasonable period of time, in accordance with the provisions of the Law and of these Regulations. If a positive determination of dumping or subsidization and injury is made, the undertaking shall be maintained in accordance with its terms and the provisions of the Law and of these Regulations.

Article 193. The CDC may suggest price undertakings, but no exporter shall be forced to enter into such undertakings. The fact that an exporter does not offer such undertakings, or does not accept an invitation to do so, shall in no way prejudice the consideration of the case. However, the CDC shall be free to determine that a threat of injury is more likely to be realized if the dumped or subsidized imports continue.

Article 194. The CDC may require any government or exporter from whom undertakings have been accepted to provide periodically information regarding the fulfilment of such undertakings, and which permits verification of pertinent data.

First paragraph. In case of violation of an undertaking, the CDC may take expeditious actions, such as the immediate application of provisional measures, using the best information available.

Second paragraph. In the case referred to in the preceding paragraph, definitive duties may be levied on products entered for consumption not more than ninety (90) days before the application of such provisional measures, except that any such retroactive assessment shall not apply to imports entered before the violation of the undertaking.

Article 195. Pursuant to paragraph I of Article 36 of the Law, public notices of a preliminary or final determination, whether affirmative or negative, of a decision to accept a price undertaking, of the termination of such an undertaking, or of the termination of an anti-dumping duty or a definitive countervailing measure, shall set forth, in sufficient detail, the findings and conclusions reached on all issues of fact and law considered material by the CDC. All such notices and reports shall be forwarded to the country or countries the products of which are subject to such determination or undertaking and to other accredited interested parties.

Paragraph. The conclusion or suspension of an investigation in the case of an affirmative determination providing for the imposition of a definitive duty or the acceptance of a price undertaking shall be made known by public notification indicating where to obtain all relevant information on the matters of fact and law and the reasons which have led to the imposition of final measures or the acceptance of a price undertaking, as well as the non-confidential part of the undertaking.

Article 196. In the case of subsidies, the public notice of acceptance of an undertaking shall provide information as to where and how to obtain the provisions thereof. The CDC website shall display the non-confidential part of the undertaking and set forth in sufficient detail the findings and conclusions on all issues of fact and law considered material.

CHAPTER II
THE ESSENTIAL FACTS

Article 197. In subsidy and dumping proceedings, after the hearing has been held and the CDC has completed verification of information collected in the course of the investigation and, in any event, at least thirty (30) days before the proposed date for the final determination, the CDC shall inform all accredited interested parties, in writing, subject to the applicable confidentiality requirements, of the essential facts under consideration which will form the basis for the decision whether to apply definitive measures.

Paragraph. Accredited interested parties may submit comments on information disclosed to them, in writing and within ten (10) working days of the disclosure.

CHAPTER III
SUNSET REVIEW OF DUTIES

Article 198. The CDC may, eight (8) months before the elimination of the anti-dumping or countervailing duties, *ex officio* or upon a written request by or on behalf of the domestic industry containing positive information substantiating the need for the review, undertake a sunset review of definitive anti-dumping or countervailing duties to assess the need for the maintenance of such a duty. The CDC shall publish a notice at the start of the aforementioned review.

Paragraph. The anti-dumping or countervailing duties may continue to be applied pending the outcome of the review.

Article 199. In conducting a sunset review of the anti-dumping or definitive countervailing duties, the CDC shall examine whether the continued imposition of the duty is necessary to offset the dumping or subsidization, whether the injury would be likely to continue or recur if the duty were removed or varied, or both. If, as a result of a review under the preceding Article, the CDC determines that the anti-dumping or countervailing duty is no longer warranted, it shall be terminated immediately.

CHAPTER IV
NEW SHIPPER REVIEW

Article 200. If a product is subject to definitive anti-dumping or countervailing duties, the CDC shall promptly carry out a review for the purpose of determining an individual margin of dumping or subsidy amount for any exporters or producers in the exporting country or countries concerned who did not export the product to the Dominican Republic during the period of investigation, provided that these exporters or producers can show that they are not related to any of the exporters or producers in the exporting country who are subject to the anti-dumping or countervailing duties on the imported investigated product.

First paragraph. Such a review shall be initiated within thirty (30) days following the date of receipt of the application by the producer or exporter concerned.

Second paragraph. The review shall normally be completed within six (6) months from its initiation and, in any event, no later than twelve (12) months.

Third paragraph. No anti-dumping or countervailing duties shall be levied on imports from such exporters or producers while the review is being carried out. The CDC may, however, withhold appraisement and/or request guarantees to ensure that, should such a review result in an affirmative determination of dumping or subsidization in respect of such producers or exporters, anti-dumping or countervailing duties can be levied retroactively to the date of the initiation of the review.

CHAPTER V
REVIEW FOR CHANGE OF CIRCUMSTANCES

Article 201. After a period of at least twelve (12) months has elapsed from publication of the decision which put an end to the investigation, the CDC may, at the request of any accredited interested party or *ex officio*, consider whether the definitive anti-dumping or countervailing duties in force should be maintained or modified. In evaluating the request, the CDC shall consider whether there is sufficient evidence of a significant change in the situation which warrants the said review.

Paragraph. In carrying out the review for change of circumstances, the substantive and procedural provisions contained in the Law and in these Regulations shall be observed.

Article 202. If at the end of the review for change of circumstances it is determined that the duty applied is not warranted, the definitive anti-dumping or countervailing duty shall be revoked.

Article 203. If at the end of the review for change of circumstances dumping margins or subsidy amounts determined are different from those determined in the investigation that gave rise to the definitive anti-dumping or countervailing duty, the new amounts of the measures taken shall replace the previous ones. These new measures shall be final and may be reviewed in accordance with the provisions of these Regulations.

TITLE VII
SAFEGUARD MEASURES

CHAPTER I
THREAT OF SERIOUS INJURY, SERIOUS INJURY AND CAUSAL LINK

Article 204. Where it is determined that as a result of unforeseen developments and of the effect of obligations incurred by the Government of the Dominican Republic under the GATT, the investigated product is being imported in such increased quantities and under such conditions as to cause or threaten to cause serious injury to the domestic industry producing like or directly competitive products, a safeguard measure may be applied.

Article 205. In its investigation to determine whether increased imports of the investigated product have caused or are threatening to cause serious injury to a domestic industry, the CDC shall use as its basis an evaluation of all relevant objective and quantifiable factors having a bearing on the situation of that industry, in particular:

(a) the rate and amount of the increase in imports of the investigated product, in absolute terms and relative to domestic production of like or directly competitive products;

(b) the share of the domestic market taken by increased imports of the investigated product; and

(c) the impact of increased imports of the investigated product on the domestic industry, as evidenced by relevant indicators including: actual and potential decline in sales, profits, production volume, market share, productivity, return on investments, or utilization of capacity; factors affecting domestic prices; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital or investments.

Paragraph. In investigating whether the increased imports threaten to cause serious injury, the CDC shall also assess the following:

(a) the actual and potential export capacity of the country or countries of production or origin;

(b) any build-up of inventories in the country and in the countries of export;

(c) the probability that exports of the investigated product will enter the country's market in increasing quantities; and

(d) any other factor deemed relevant by the CDC.

Article 206. The CDC may only determine that increased imports of the investigated product have caused or are threatening to cause serious injury to the domestic industry if the CDC finds that there is a relationship of cause and effect between the increased imports and the actual, or threatened, serious injury to the domestic industry.

Article 207. When factors other than increased imports of the investigated product are at the same time causing or threatening to cause injury to the domestic industry, such injury shall not be attributed to the increased imports.

CHAPTER II
APPLICATION FOR A SAFEGUARD INVESTIGATION

Article 208. The request initiating an investigation into safeguard measures, in addition to being submitted in writing and satisfying the requirements prescribed in Article 61 of the Law, shall contain the following:

(a) the name or business name and domicile of the interested parties and of their legal representative, accompanied by accrediting documents;

(b) the principal activity engaged in;

(c) the percentage of domestic production of the like or directly competitive products represented by the requesting enterprises;

(d) in addition to the names and addresses of the enterprises or entities represented in the application, or of the requesting enterprises, the names and addresses of all other known producers of the domestic like or directly competitive products, known importers, known foreign exporters and known clients that have purchased the domestic product or the imported product shall also be included;

(e) a description of the investigated product, including its technical characteristics and uses, and an identification of its tariff classification and the duties applicable;

(f) a complete description of the domestic like or directly competitive products, including their technical characteristics and uses;

(g) a description of the increase in imports alleged to exist;

(h) detailed information relevant to the existence of serious injury or threat thereof to the domestic industry in the three (3) years preceding the request, and any more recent partial year data, including but not limited to the following matters:

(1) As regards serious injury, the application shall state:

i. Volume and value of domestic production;
ii. Production capacity utilization;
iii. Changes in inventory levels;
iv. Market share;
v. Changes in sales levels;
vi. Level of employment and wages in the domestic industry;
vii. Productivity;
viii. Profit and losses;
ix. Return on investments;
x. Cash flow; and
xi. Any other indicators considered relevant.

(2) In the event of the alleged threat of serious injury, the following points will also be analysed:

i. Export capacity in the exporting countries;
ii. Inventories in the country and in the exporting countries; and
iii. Information regarding the probability that imports will increase, including, for example, trade restrictions on exports to third country markets.

(i) an explanation of why the application of a safeguard measure would be in the public interest;

(j) a domestic industry adjustment plan, which sets out the actions to be taken throughout the duration of the measure in order to strengthen the industry or industries; for example, to facilitate the orderly transfer of resources to more productive uses, to improve competitiveness or to adapt to new conditions of competition, together with the type and level of the measure considered necessary to ensure the achievement of the objectives pursued.

First paragraph. The adjustment plan to be submitted shall cover, without being limited to, the following aspects:

(a) quantifiable targets and time limits;

(b) reasonableness of time limits and envisaged scenarios;

(c) proportion to be funded through the effect of a measure;

(d) other sources of funding or public policy programmes;

(e) self-help or borrowing; and

(f) probability of narrowing the gap with the imported products.

Second paragraph. The CDC shall be empowered to monitor implementation of the adjustment plan by the domestic industry.

Article 209. If the domestic industry requests a provisional measure, information must be provided regarding critical circumstances facing it and proof that the damage to the domestic industry would be difficult to repair, as well as a statement indicating the level of tariff increase requested as a provisional measure.

CHAPTER III
PROVISIONAL SAFEGUARDS

Article 210. In an investigation in which application of a provisional safeguard measure will be considered, any accredited interested party may submit, as rapidly as possible, written arguments concerning any matter it considers relevant to the preliminary phase of the investigation. Those arguments shall, however, be submitted fifteen (15) working days before the date proposed for the determination regarding the application of a provisional safeguard measure.

Article 211. With respect to Article 74 of the Law, and in accordance with the time limits set in these Regulations, the CDC may take a provisional safeguard measure pursuant to a preliminary determination that there is clear evidence that increased imports have caused or are threatening to cause serious injury, and this in the case of critical circumstances, where delay would cause damage that would be difficult to repair.

Article 212. Under Article 75 of the Law, the provisional measures adopted should take the form of tariff increases, which must be promptly reimbursed if the subsequent investigation under these Regulations does not determine that increased imports have caused or threaten to cause serious injury to the domestic industry.

Paragraph. The duration of the provisional measures shall be calculated as part of the initial period and the corresponding extensions.

Article 213. Upon taking a decision regarding the application of a provisional safeguard measure, the CDC shall publish a notice in a national newspaper and shall notify the exporting countries via the appropriate channels. The notice shall contain the following information:

(a) a description of the investigated product, including its technical characteristics, uses, its tariff classification and the duties applicable;

(b) the volume and value of the imported product for the three (3) years preceding the request, and any more recent partial-year data available, by country of origin;

(c) a description of the domestic like or directly competitive products, including their technical characteristics, uses and their tariff classification;

(d) the names of all known producers of the domestic like or directly competitive products;

(e) the basis for the determination of critical circumstances, where delay would cause damage that would be difficult to repair, and the basis for the determination of the existence of clear evidence that the investigated product is being imported in such increased quantities and under such conditions as to cause or threaten to cause serious injury to the domestic industry producing like or directly competitive products;

(f) the amount of tariff increase proposed as the provisional safeguard measure; and

(g) the duration of the provisional safeguard measure.

Article 214. If the CDC decides not to apply a provisional safeguard measure, the available information regarding the non-application shall include the following:

(a) a complete description of the investigated product, including its technical characteristics, uses, its tariff classification and the duties applicable;

(b) an identification of the domestic like or directly competitive products;

(c) an explanation of the reasons for the decision not to apply a provisional safeguard measure; and

(d) a statement indicating whether the investigation will be terminated at that point, or continued through the final phase.

Article 215. After a decision has been made to apply a provisional safeguard measure, and before the measure takes effect, the CDC, through the Ministry of Foreign Affairs, shall immediately notify the WTO Committee on Safeguards, in conformity with the requirements established by the Committee. As soon as the measure has been applied, the consultations referred to in Article 12.4 of the WTO Agreement on Safeguards shall be initiated.

CHAPTER IV
DEFINITIVE SAFEGUARD MEASURES

Article 216. Upon taking a decision regarding the application of a definitive safeguard measure, the CDC shall publish a notice in a national newspaper which shall indicate how to access the information. The notice shall contain:

(a) a description of the investigated product, including its technical characteristics, uses, tariff classification and the duties applicable;

(b) the volume and value of the imported product for the three (3) years preceding the request, and any more recent partial-year data available, by country of origin;

(c) a description of the domestic like or directly competitive products, including their technical characteristics and uses;

(d) the names of all known producers of the domestic like or directly competitive products;

(e) a summary of the unforeseen developments that led to the increase in imports of the investigated product, or to the change in the conditions under which such imports occur;

(f) a summary of the determination of serious injury, including the factors considered, as well as of the findings and reasoned conclusions reached on the issues of fact and law considered, or a cross-reference to the notice of determination regarding injury and causation;

(g) the reasons for which it has concluded that application of a definitive safeguard measure is in the public interest;

(h) details of the domestic industry adjustment plan;

(i) the form, level and duration of the proposed definitive safeguard measure, and an explanation thereof;

(j) the proposed date of application of the definitive safeguard measure;

(k) if a quantitative restriction is proposed, the allocation of the quota among the supplier countries, an explanation and the relevant information;

(l) if the proposed duration of the measure, including the period of application of any provisional safeguard measure, is more than one (1) year, a timetable for the progressive liberalization of the measure; and

(m) the list of countries to which the safeguard measure shall not apply.

Paragraph. The allocation of quotas mentioned in subparagraph (k) of this Article shall be done in conformity with Article 5 of the Agreement on Safeguards.

Article 217. A definitive safeguard measure normally shall be applied in the form of a tariff increase, a tariff quota or an import ceiling.

First paragraph. Safeguard measures shall not be applied to a product originating in a developing country as long as its share of imports into the Dominican Republic does not exceed 3%, provided that developing countries with individual shares of less than 3% of imports collectively represent not more than 9% of total imports of the product concerned.

Second paragraph. The WTO Committee on Safeguards shall be notified of the non-application of a definitive safeguard measure to imports, in conformity with the requirements established by that Committee.

Article 218. A definitive safeguard measure in the form of a quota or quotas on imports of the investigated product shall not reduce the quantity of those imports below the average level registered in the most recent three (3) representative years for which statistics are available, except as provided in Article 73 of the Law.

Article 219. If at any point during an investigation, the CDC terminates the investigation with no definitive safeguard measure applied, or in the event it is determined not to apply a definitive

safeguard measure, the WTO Committee on Safeguards shall be notified immediately, in conformity with the requirements established by that Committee.

Article 220. For the purposes of Article 79 of the Law, if the duration of the measure exceeds three (3) years, the CDC shall, not later than the mid-term of the period of application of the measure, examine the situation, and if appropriate, withdraw it or increase the pace of liberalization.

Paragraph. As a developing country, the Dominican Republic shall abide by the provisions of Article 9.2 of the Agreement on Safeguards regarding the period of application of a safeguard measure.

Article 221. Notwithstanding the provisions of Article 80 of the Law, a safeguard measure with a duration of one hundred and eighty (180) days or less may be applied again to the import of a product if:

(a) at least one (1) year has elapsed since the date of introduction of a safeguard measure on the import of that product; and,

(b) such a safeguard measure has not been applied on the same product more than twice in the five-year period immediately preceding the date of introduction of the measure.

Article 222. Immediately following the taking of a decision to apply a definitive safeguard measure, the CDC shall notify the WTO Committee on Safeguards, providing it with all pertinent information, which shall include evidence of serious injury or threat thereof caused by the increased imports, a precise description of the good involved and the proposed measure, the proposed date of introduction of the measure and its expected duration and a timetable for the progressive liberalization of the measure.

Paragraph. In the case of an extension of a measure, evidence shall also be provided that the domestic industry concerned is adjusting.

CHAPTER V
REVIEW OF THE SAFEGUARD MEASURES

Article 223. If the domestic industry considers that there is a continuing need to apply a definitive safeguard measure beyond the initial period of application, it shall submit a written request for extension of the measure along with evidence that the industry is carrying out its adjustment plan, not less than six (6) months before the end of that period. The CDC shall conduct an investigation to determine whether an extension is warranted. To that end, the procedures set forth in these Regulations for applying the original measure shall be followed.

Article 224. The CDC may extend a definitive safeguard measure only if it determines through investigation that the measure continues to be necessary to prevent or remedy serious injury, and that there is evidence that the domestic industry is adjusting.

Article 225. The notice of extension of a definitive safeguard measure shall be subject to the same requirements prescribed for the notice of application of a definitive safeguard measure.

Paragraph. The provisions of this Article shall apply when a definitive safeguard measure is extended, while maintaining the level of concessions and obligations existing under the GATT between the Dominican Republic and the exporting countries that would be affected by the measure.

CHAPTER VI
SPECIFIC PROVISIONS ON SAFEGUARDS

Article 226. These Regulations recognize and adopt the provisions and procedures agreed by the Dominican Republic under trade agreements.

First paragraph. In such cases, the CDC shall collaborate with the Directorate of Foreign Trade and Administration of International Trade Agreements, a division of the Ministry of Industry and Trade (DICOEX), to ensure fulfilment of the Dominican Republic's trade defence commitments under those agreements.

Second paragraph. The provisions regarding Regulation 520-06 for the Application of Safeguard Measures under the Central America-Dominican Republic-United States Free Trade Agreement shall continue in force for the specific case of the countries that form part of that trade agreement.

TITLE VIII
REGULATORY POWERS AND ADMINISTRATIVE APPEALS

CHAPTER I
ACTS OF THE CDC

Article 227. The CDC has full regulatory power to organize its internal administration and issue the regulations implementing the Law and other administrative acts governing its sphere of competence.

Paragraph. In formulating rules and issuing administrative acts that have an effect on third parties, the CDC shall observe the principles and procedures prescribed in Law No. 107-13 on the Rights of Persons in their Relations with the Administration and on Administrative Procedures, or any other that supplements it or lays down provisions in that regard.

CHAPTER II
ADMINISTRATIVE APPEALS

Article 228. The decisions of the CDC shall be subject to applications for reconsideration and to judicial reviews.

Article 229. The parties may file an application for reconsideration with the CDC within thirty (30) days counted as from the date of notification or publication of the notice of the decision to be appealed against, as appropriate.

Paragraph. The CDC shall have a period not exceeding thirty (30) days in which to respond to the application for reconsideration.

Article 230. Decisions taken by the CDC relating to anti-dumping duties, countervailing duties and safeguard measures may be appealed before the Higher Administrative Court within thirty (30) days of the date their notification.

Article 231. The Higher Administrative Court shall exercise jurisdictional control over the administrative processes followed by the CDC when determining anti-dumping or countervailing duties or safeguard measures, ensuring that they are in compliance with the Law and its Regulations.

Article 232. Submission of the appeals envisaged in this chapter shall not have any suspensive effect on anti-dumping or countervailing duties or safeguard measures.

TITLE IX
FINAL PROVISIONS

Article 233. These Regulations repeal the Regulations Implementing Law No. 1-02 approved through Resolution No. 003-2008 of 15 September 2008.

Article 234. These Regulations shall take effect upon their approval and publication by the CDC.

Article 235. The rates set by the CDC for the handling of investigations may be reviewed every two (2) years.

Article 236. The time-frames contemplated in these Regulations are counted in working days, except in the cases of time-frames envisaged under WTO Agreements, which shall be counted in accordance with WTO criteria.

Article 237. These Regulations modify any other regulatory provision or resolution that may conflict with them in whole or in part.

Approved by the unanimity of the votes cast by Ivan E. Gatón, Chairperson; Fantino Polanco, Milagros J. Puello, Elvyn Alejandro Arredondo M. and Mario E. Pujols Ortiz, Commissioners. In the city of Santo Domingo, National District, Dominican Republic, on the tenth (10) day of November of the year two thousand and fifteen (2015).

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