ANTI-DUMPING LEGISLATION OF SPAIN

The permanent mission of Spain has transmitted to the secretariat the following text of Spain's Anti-Dumping legislation.

MINISTRY OF COMMERCE


Being concerned to make provision to protect certain sectors of domestic production against dumping, the Government, in pursuance of the authority laid down in the Customs Tariff Act and in the Act approving the First Economic and Social Development Plan, issued Decree one thousand seven hundred and nineteen/one thousand nine hundred and sixty-four of twenty-seventh May regulating anti-dumping and countervailing duties.

The evolution of international and domestic economic circumstances and the Government's desire gradually to adapt our legislation to the rules of international organizations have rendered it advisable to modify Spain's legislation and to adapt to the agreements signed within the said Organizations. Notwithstanding the fact that the aforementioned Decree one thousand seven hundred and nineteen/one thousand nine hundred and sixty-four is now replaced by the Decree now promulgated, the modification does no more in fact than to introduce some alterations in the existing rules, these being already largely based on the provisions embodied in Article VI of the General Agreement on Tariffs and Trade (GATT). The approval of the present Decree nevertheless implies the closest possible adaptation to the said Article VI and to the Agreement on its implementation (Anti-Dumping Code), by embodying these rules in the Spanish legislation and by merely stipulating such detailed indications as are indispensable in regard to procedures and to the appropriate organs.

Moreover, by putting these rules into force, immediate compliance is ensured with the undertaking entered into by Spain under the Agreement with the European Economic Community of twenty-nine June last which has been duly ratified by the Spanish Cortes.
Accordingly, on the proposal of the Minister of Commerce and after consideration by the Council of Ministers at its meeting on six November one thousand nine hundred and seventy,

I HEREBY DECIDE AS FOLLOWS:

Article 1. The imposition of an anti-dumping or countervailing duty is a measure to be taken only in the circumstances provided for in Article VI of the GATT and in accordance with the provisions of the Agreement on implementation of the said Article VI (Anti-Dumping Code), the texts of which are published as annexes to the present Decree.

Article 2. The proceeding shall normally be initiated upon a request made by the interested party. To that end, any organization representing the domestic industry affected or any natural person or corporate body acting on behalf of that industry shall request the Directorate-General for Tariff Policy and Imports of the Ministry of Commerce to establish anti-dumping or countervailing duties.

The applicants shall be required to provide the following particulars:

1. Name and address of the undertaking, person or organization making the representation.

2. Name and detailed description of the goods.

3. Indication of the tariff heading and sub-heading corresponding to the said goods.

4. Documentary evidence of the normal value, in accordance with the provisions of Article VI of the GATT, of the like product in the country of origin or of consignment, and of the f.o.b. or free-at-frontier price for its exports to Spain.

5. An indication of the domestic taxes charged on the like product in the country of origin or of consignment when destined for consumption in that country.

6. A detailed indication of the injury caused or threatened to the domestic industry as a result of the non-introduction of anti-dumping or countervailing duties.

The Directorate-General for Tariff Policy and Imports may initiate the procedure in its official capacity but for that purpose it must be in possession of evidence both on the dumping, bounty or subsidy and on injury resulting therefrom.
Article 3. Upon receipt of the request referred to in Article 2, or on its own initiative, the Directorate-General for Tariff Policy and Imports, if it considers that the initial evidence both on the dumping, bounty or subsidy and on the injury caused is sufficient therefor, shall initiate an investigation in order to elucidate the facts, requesting a report first of all from the appropriate Ministerial departments.

Article 4. If, as a result of the investigation referred to in Article 3, the Directorate-General for Tariff Policy and Imports considers that there is sufficient evidence of dumping or of a bounty or subsidy and that material injury is being caused thereby to the industry affected, it shall refer the relevant files to the Interministerial Valuation Committee (Comisión Interministerial de Valoración) which is an advisory body of the Ministry of Commerce.

Article 5. Once it has received the file relating to the representation, as referred to in Article 4, the Interministerial Valuation Committee shall examine it, obtaining all the information and opinions that it considers desirable in order to contribute to the investigation initiated by the Directorate-General for Tariff Policy and Imports.

If the Interministerial Valuation Committee considers that all the required conditions have been fulfilled and that it is appropriate to establish an anti-dumping or countervailing duty, it shall submit a report and a duly substantiated proposal to the Minister of Commerce, who, if he deems appropriate, shall instruct the Directorate-General for Tariff Policy and Imports to prepare the appropriate Draft Decree.

Article 6. Where the Interministerial Valuation Committee considers on the evidence of the facts, that a legal presumption of fiscal fraud or monetary offence may exist, it shall bring the matter, through its Chairman, to the knowledge of the Minister of Finance so that the latter may take, through its appropriate organs, the appropriate measures of investigation in accordance with the rules in force.

Article 7. Without prejudice to definite measures arising out of the procedure prescribed in the present Decree, where a preliminary examination shows that dumping, bounty or subsidy exists, that there is sufficient evidence of material injury to domestic production and that immediate action is required, the Directorate-General for Tariff Policy and Imports shall take provisional measures under the relevant Decision and shall then pass on the file as soon as possible to the Interministerial Valuation Committee for action.

Article 8. The provisional measures taken in pursuance of Article 7 shall initially be for a maximum term of three months, to be followed by a definite decision. Nevertheless, if the exporters and importers so request and where it has not yet been possible to complete the study of the facts, the Interministerial Valuation Committee may propose to the Minister of Commerce that the term of the said provisional measures be extended for a further maximum period of three months.
Article 9. In accordance with the provisions of Article 6 of the Customs Tariff Act of first May one thousand nine hundred and sixty, the anti-dumping or countervailing duties shall be regarded as supplementary customs duties or surcharges over and above the Customs Tariff duties applicable to the goods imported.

Article 10. The Ministries of Finance and of Commerce shall be authorized, within their respective fields of responsibility, to lay down such complementary provisions as they may deem necessary for the implementation of the present Decree.

Article 11. Decree one thousand seven hundred and nineteen/one thousand nine hundred and sixty-four of twenty-seven May is hereby rescinded.

Article 12. The present Decree shall enter into force on the day following its publication in the "Boletín Oficial del Estado".

I so decide by the present Decree done at Madrid on twelfth November one thousand nine hundred and seventy.

FRANCISCO FRANCO

The Minister of Commerce

ENRIQUE FONTANA CODINA
ANNEXES TO THE DECREE GOVERNING THE PROCEDURAL RULES FOR THE
ESTABLISHMENT OF ANTI-DUMPING AND COUNTERVAILING DUTIES

ANNEX I: GATT, Article VI (see BISD Vol.IV, pp. 10-12 and 64-65)

ANNEX II: Agreement on Implementation of Article VI of GATT (see BISD,
15th Supplement, pp. 24-35).